

**IN THE UNITED STATES DISTRICT COURT FOR THE
 NORTHERN DISTRICT OF GEORGIA
 ATLANTA DIVISION**

GEORGIA STATE CONFERENCE OF THE)
 NAACP; GEORGIA COALITION FOR THE)
 PEOPLE’S AGENDA, INC.; GALEO)
 LATINO COMMUNITY DEVELOPMENT)
 FUND, INC.,)

Plaintiffs,)

v.)

STATE OF GEORGIA; BRIAN KEMP, in his)
 official capacity as the Governor of the State of)
 Georgia; BRAD RAFFENSPERGER, in his)
 official capacity as the Secretary of State of)
 Georgia,)

Defendants.)

Civil Case No. 21-c5338-
 ELB-SCJ-SDG

**PLAINTIFFS’ BRIEF IN OPPOSITION TO
 DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT**

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INTRODUCTION

Plaintiffs’ experts—whose opinions are virtually un rebutted—and the corroborative evidence from depositions have, at a minimum, raised genuine issues of material fact as to whether Georgia’s congressional and state legislative redistricting was fueled by racial gerrymanders, diluted the votes of Black and Hispanic citizens in violation of Section 2 of the Voting Rights Act, and did so intentionally. The caselaw in this Circuit and elsewhere consistently echoes the proposition that the fact-intensive nature of redistricting claims renders summary judgment a poor vehicle to decide such claims. This case is no exception.

In apparent acknowledgement of their heavy burden to obtain summary judgment in a case such as this, Defendants simply ignore facts supporting Plaintiffs’ claims, mischaracterize others, improperly shift the burden of summary judgment onto Plaintiffs, and ask this Court to create new and unsupported law in order to make this case go away. Summary judgment is starkly inappropriate.

In challenging the standing of Plaintiffs, the Georgia State Conference of the NAACP (“GA NAACP”); GALEO Latino Community Development Fund, Inc. (“GALEO”); and Georgia Coalition for the People’s Agenda (“GCPA”) (collectively “Plaintiffs”), Defendants first assert without support and contrary to precedent that organizational standing is not permitted in vote dilution cases. Then,

as to associational standing, Defendants fail to advise the Court of their agreement limiting discovery to the disclosure of one member per organizational Plaintiff, an agreement that limits their right to argue that Plaintiffs have failed to identify injured members in each district. In any event, Plaintiffs offer abundant proofs of at least a dozen, and in some cases hundreds, of members residing in each challenged district.

Next, despite considerable evidence in the record that race predominated over traditional redistricting principles during the redistricting process, Defendants contend that this evidence is not “conclusive” to support Plaintiffs’ racial gerrymander claims. But it is Defendants, not Plaintiffs, who bear the burden of proving “conclusiveness” on this motion. The abundant circumstantial evidence as to the motivations of the legislature is enough to defeat summary judgment. Indeed, Plaintiffs’ expert goes beyond that and demonstrates that if, as Defendants claim, their aim was partisanship, the lawmakers could have achieved that goal without moving anywhere near as many voters of color as they did.

Defendants’ challenge to Plaintiffs’ Section 2 Voting Rights Act claims is also easily dispatched. Virtually every court that has considered the issue of whether sovereign immunity applies to Section 2 cases has rejected Defendants’ argument of no waiver. As to the first *Gingles* precondition, Defendants argue that districts comprised of a coalition of two or more racial groups are barred as a matter of law,

when this Circuit's precedent is decidedly to the contrary. Failing that, they are left with a purely factual argument, inappropriate for decision on this motion, as to whether Plaintiffs' demonstrative maps sufficiently balanced traditional districting principles. Turning to the second and third *Gingles* preconditions, Defendants do not rebut Plaintiffs' expert's finding of minority group cohesion and white bloc voting, but rather improperly seek to insert into the discussion the question of what causes the racially polarized voting, an issue relevant, if at all, in adjudicating the totality of the circumstances.

Finally, as court after court has held, summary judgment is an inappropriate vehicle to decide issues of discriminatory intent. Plaintiffs will easily demonstrate the existence of a genuine factual dispute on their intentional discrimination claim.

BACKGROUND

The full set of relevant facts is set forth in Plaintiffs' Response to Defendants' Statement of Material Facts in Support of Motion for Summary Judgment ("PSOF") and Plaintiffs' Statement of Material Facts Which Present a Dispute of Facts in Opposition to Defendants' Motion for Summary Judgment. ("PODSOF").

LEGAL STANDARD

Summary judgment is appropriate only if "there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." FED.

R. Civ. P. 56(a). A fact is “material” if it can affect the outcome of the lawsuit under the governing legal principles. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). The party seeking summary judgment has the burden of informing the district court of the basis for its motion and identifying those portions of the record that demonstrate the absence of a genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986).

ARGUMENT

I. Defendants Are Not Entitled to Summary Judgment on Standing.

A. Plaintiffs have associational standing.

In *Hunt v. Washington State Apple Advert. Comm’n*, the Supreme Court held:

an association has standing to bring suit on behalf of its members when: (a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization’s purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.

432 U.S. 333, 343 (1977); *Greater Birmingham Ministries v. Sec’y of State for State of Ala.*, 992 F.3d 1299, 1316 (11th Cir. 2021). Defendants do not contest that the interests at stake in this litigation are germane to the purposes of each of the Plaintiff organizations. Defendants’ sole argument on associational standing is that “each organization has failed in discovery to provide evidence that they have members in

every challenged district.” Def. Mot. at 11. But Defendants neglect to inform the Court of their agreement with Plaintiffs in which they agreed to limit their discovery on associational standing as to each Plaintiff so long as each Plaintiff identified a single injured member. *See* Declaration of Crinesha Berry (“Berry Decl.”); Declaration of Julie Houk (“Houk Decl.”). This agreement was expressly intended to limit the number of members Plaintiffs had to disclose in discovery. Berry Decl. 4-14; Houk Decl. 7-14. In any event, Plaintiff organizations have numerous members that reside in each challenged district, as explained below, easily meeting the controlling standing standard.

1. *Defendants agreed to limit their discovery on associational standing to a single member for each Plaintiff organization.*

Defendants’ Interrogatory Number 6 asked Plaintiffs to: “Identify all ‘members’ of the Organizational Plaintiffs that Organizational Plaintiffs plan to rely on for purposes of establishing associational standing.” Berry Decl. ¶ 2 (Ex. 1); Houk Decl. ¶ 3. Although Plaintiffs objected to this request on the grounds of associational privilege, among other reasons, with respect to naming individual members, each plaintiff noted that it “expect[ed] to offer evidence that it has members residing in certain of the challenged districts at issue in this litigation.” Berry Decl. ¶ 3 (Exs. 2-4); Houk Decl. ¶¶ 4-6 (Exs. 2-4). In an attempt to move the case along and resolve any dispute over Plaintiffs’ associational standing, counsel

conferred and agreed that Plaintiffs would supplement their interrogatory response by naming a single member for each Plaintiff organization and that Defendants would limit their discovery on associational standing to those three individuals. Berry Decl. ¶¶ 4-14; Houk Decl. ¶¶ 7-14. Plaintiffs confirmed this oral agreement with Defendants in writing:

I'm writing to confirm the outcome of our meet and confer on Friday. The conclusion was that for any Plaintiff that identifies one member, the State's challenge to *that Plaintiff's associational standing* will be limited to the identified member's individual standing. If circumstances arise such that a Plaintiff identifies a different member for associational standing purposes, the State may take additional discovery regarding that member's individual standing notwithstanding the expiration of discovery-related deadlines. (emphasis added)

Berry Decl. ¶ 12. Counsel for Defendants agreed. Berry Decl. ¶ 13 (“Thanks for this email – yes, this confirms our agreement and the meet and confer.”). Pursuant to this agreement, Plaintiffs supplemented their interrogatory responses, and each organizational plaintiff named one individual member. Berry Decl. ¶ 14; Houk Decl. ¶ 14.

Without advising this Court of their agreement to limit discovery, Defendants now seek to penalize Plaintiffs for complying with that very deal. Def Mot. at 11. However, the Supreme Court has made clear that a defendants' right to seek discovery on associational standing in redistricting cases is limited to the information defendants specifically request. *Ala. Legislative Black Caucus v.*

Alabama, 575 U.S. 254, 270 (2015) (“At the very least, the common-sense inference is strong enough to lead the Conference reasonably to believe that, in the absence of a state challenge or a court request for more detailed information, it need not provide additional information such as a specific membership list. . . .”).¹

2. *Plaintiff organizations collectively have at least one—and sometimes hundreds—of members in each challenged district, sufficient to raise at least a genuine dispute of fact as to standing.*

Not surprisingly—and as indicated in their response to Interrogatory No. 6—given the thousands of members Plaintiffs have throughout the State of Georgia, Plaintiffs have sufficient membership in the challenged districts to support

¹ Plaintiffs recognize that Defendants may assert an understanding of the agreement – however unjustified – different than that had by Plaintiffs. If more is needed, in these circumstances, as the Court further explained in *Ala. Legislative Black Caucus*, “elementary principles of procedural fairness” require that this Court give Plaintiffs “an opportunity to provide evidence of member residence.” *Id.* at 271. Plaintiffs provide that evidence in the next point. Further, the agreement limiting Defendants’ discovery also provided that Plaintiffs may identify different members for the purposes of satisfying associational standing as long as “the State may take additional discovery. . . notwithstanding the expiration of discovery-related deadlines.” In accordance with that provision, Plaintiffs advised Defendants on April 26, 2023 that they are identifying a substitute for one of the members previously identified, because that member no longer would support associational standing. This provision could be used as a basis for allowing Plaintiffs to identify additional members if required. However, for the reasons set forth in the next point, that need not be required. Further, if there was not a meeting of the minds as to the meaning of the agreement to limit discovery as to associational standing, then there is ample time for discovery to be reopened on that limited issue.

associational standing easily. In *Ala. Legislative Black Caucus*, the Court found that testimony from a “representative of the Conference” that it had “members in almost every county in Alabama” and is a “statewide political caucus” with the “‘purpose’ of ‘endors[ing] candidates for political office who will be responsible to the needs of the blacks and other minorities and poor people’” was “sufficient to meet the Conference's burden of establishing standing” in a redistricting case. *Id.* at 269-70, 84 (alteration in original); *see also Fla. State Conf. of N.A.A.C.P. v. Browning*, 522 F.3d 1153, 1163 (11th Cir. 2008).

In *Ala. Legislative Black Caucus*, the information deemed sufficient was nothing more than a sworn statement that the organization had many members. Similarly, in *Browning*, the information deemed sufficient by the Eleventh Circuit was nothing more than that the organization had thousands of members. *Browning*, 522 F.3d at 1163. Here, Plaintiffs have submitted much more: declarations from the GA NAACP, GALEO, and the GCPA providing evidence that across all three groups, the Plaintiff organizations have numerous—often hundreds—of members in each district challenged as a racial gerrymander. *See* PSOF at ¶¶ 1-7 (GA NAACP); 8-11 (GALEO); 12-16 (GCPA). These declarations also provide evidence that—in every district cluster Plaintiffs challenge under the Voting Rights Act—numerous (often hundreds) of members of the Plaintiff organizations reside in majority-white

districts under the enacted plan but in majority-minority districts under one of the Plaintiffs' mapping expert's illustrative plans. *Id.* This evidence is more than enough to create a fact issue as to whether the Plaintiffs have associational standing. *See Ala. Legislative Black Caucus*, 575 U.S. at 269-70.²

B. Plaintiffs have organizational standing.

Each of the Plaintiffs also has organizational standing. “To establish standing, an organization, like an individual, must prove that it either suffers actual present harm or faces a threat of imminent harm.” *City of S. Miami v. Governor*, No. 21-13657, 2023 WL 2925180, at *4 (11th Cir. Apr. 13, 2023). An organization suffers actual harm “if the defendant's illegal acts impair [the organization's] ability to engage in its projects by forcing the organization to divert resources to counteract those illegal acts.” *Id.* (alteration in original) (quoting *Browning*, 522 F.3d at 1165). The Eleventh Circuit has found organizational standing in voting cases where civil rights groups provide evidence that the challenged laws “divert[ed] personnel and time” from other core projects. *Browning*, 522 F.3d at 1166; *Common Cause/Georgia v. Billups*, 554 F.3d 1340, 1350 (11th Cir. 2009).

² If the Court requires more, notwithstanding Defendants' agreement, Plaintiffs ask that they be given an opportunity to contact the individual members and request permission to identify them, and further ask that such identification be made *in camera* to protect the associational rights of Plaintiffs and their members.

Here, Defendants do not dispute the ample evidence in the record that Plaintiff organizations have diverted personnel and time from other projects.³ See PSOF at ¶¶ 17-38. Instead, Defendants argue only that resource diversion-based organizational standing is inapplicable to redistricting cases as a matter of law. Def. Mot. at 8-9. But their only support for that proposition are cases dealing with *associational* standing. See Def. Mot. at 9 (citing *Gill v. Whitford*, 138 S. Ct. 1916, 1930 (2018)). At least one court has recognized the applicability of organizational standing in redistricting cases, in language fully aligned with the prevailing Eleventh Circuit law. See *Perez v. Abbott*, 267 F. Supp. 3d 750, 772 (W.D. Tex. 2017), *aff'd in part, rev'd on other grounds in part and remanded*, 138 S. Ct. 2305 (2018) (“courts have consistently found standing under *Havens* for organizations to challenge alleged violations of § 2 of the VRA and the Fourteenth Amendment”).

II. Defendants Are Not Entitled to Summary Judgment on Plaintiffs’ Racial Gerrymandering Claims (Count I).

To prevail on a racial gerrymandering claim, Plaintiffs must ultimately prove that “race was the predominant factor motivating the legislature’s decision to place a significant number of voters within or without a particular district.” *Miller v. Johnson*, 515 U.S. 900, 916 (1995). To do so, Plaintiffs need not rely on direct

³ Plaintiffs have agreed to waive any argument that they can support standing on the basis of diversion of financial resources.

evidence of motivation, but instead can show predominance through “circumstantial evidence of a district’s shape and demographics[.]” *Id.* “The task of assessing a jurisdiction’s motivation . . . is not a simple matter; on the contrary, it is an inherently complex endeavor [that] require[s] the trial court to perform a ‘sensitive inquiry into such circumstantial and direct evidence of intent as may be available.’” *Hunt v. Cromartie*, 526 U.S. 541, 546 (1999). Thus, summary judgment on racial gerrymandering claims is improper if reasonable inferences can be drawn such that the motivations of the legislature are in dispute. *Id.* at 552. A single expert affidavit that contains circumstantial evidence about the motivations of the legislature is enough to defeat summary judgment on a racial gerrymander claim. *Id.* at 549-51.

Here, Defendants seemingly concede that the record is replete with circumstantial evidence of racial gerrymandering, but merely complain that such evidence is not “conclusive.” Def. Mot. at 14. It is Defendants’, not Plaintiffs’, burden on this motion to prove that its evidence is both undisputed and “conclusive.” For that reason alone, summary judgment should be denied on this claim.

If more is needed, the record contains ample evidence sufficient to create at a minimum a genuine dispute of material fact as to whether race predominated in the drawing of Congressional Districts 2, 3, 4, 6, 8, 10, 13, and 14; Senate Districts 1, 2, 4, 17, 26, 48, and 59; and House Districts 44, 48, 49, 52, and 104. Plaintiffs’ expert,

Dr. Moon Duchin provided detailed analyses to that effect, showing how traditional districting principles were subordinated to the cracking and packing of communities of color, as explained below. Dr. Duchin’s findings are unrebutted, as Defendants’ mapping expert did not offer any opinion as to racial gerrymandering. Declaration of Jacob Canter (“Canter Decl.”) ¶ 23 (Exhibit 22).

- **CD 2 and CD 8**: Dr. Duchin determined that political subdivision splits with racial disparities in Bibb County provide evidence that race predominated in the drawing of these districts, consistent with the packing of CD 2 and the cracking of CD 8. PSOF at ¶¶ 145-146.
- **CD 3**: Dr. Duchin determined that political subdivision splits in CD 3 consistent with cracking Black voters is evidence that race predominated over traditional redistricting principles in the drawing of CD 3. *Id.* at ¶¶ 147-148.
- **CD 4 and CD 10**: Dr. Duchin determined that political subdivisions splits with racial disparities in Newton County provide evidence that race predominated in the drawing of these districts such that Black voters in CD 4 were packed and Black voters in CD 10 were cracked. *Id.* at ¶¶ 149-150, 154.
- **CD 6**: Dr. Duchin determined that her core retention/population flow and political subdivision split analysis is evidence that race predominated over traditional redistricting principles in the cracking of CD 6, which previously performed for Black and Latino voters. *See e.g. id.* at ¶¶ 151-153 (district targeted to crack Black and Hispanic voters from CD 6); *id.* at ¶¶ 96-106 (core retention/population flows); *id.* at ¶¶ 143-144, 147-18 (county splits), *id.* at ¶¶ 151-153 (racially charged precinct splits). Dr. Duchin also reviewed community testimony and determined that the cracking of CD 6 split communities of interest by pairing disparate, white, rural and suburban voters from Forsyth, Dawson, and Cherokee counties with urban, Black voters in the metro-Atlanta region. *Id.* at ¶¶ 95, 98, 104, 258.

- **CD 13:** Dr. Duchin determined that political subdivision splits in CD 13 with racial disparities were evidence that race predominated over traditional redistricting principles in the drawing of CD 13. *Id.* at ¶¶ 143-144, 147-148.
- **CD 14:** Dr. Duchin determined that her core retention/population flow and political subdivision analysis is evidence that race predominated over traditional redistricting principles in the drawing of CD 14. *Id.* at ¶¶ 107-113 (core retention/population flows); *id.* at ¶¶ 143-144, 147-148 (county splits). Dr. Duchin determined that the movement of two majority-Black cities—Powder Springs and Austell—into CD 14, which resulted in the “submerg[ing]” of Black voters “among more numerous, dissimilar communities from CD 14 “can’t be justified in terms of compactness or respect for urban/rural communities’ of interest.” *Id.* at ¶¶ 108-113.
- **SD 56:** Dr. Duchin determined that her core retention/population flow analysis, which shows that Black and Latino voters were cracked—is evidence that race predominated over traditional redistricting principles in SD 56. *Id.* at ¶¶ 130-137 (racially imbalanced population shifts)]. Dr. Duchin also opined that SD 56 was cracked just as Black and Latino voters were on the verge of electing their candidates of choice. *Id.*
- **SD 1, SD 2, and SD 4:** Dr. Duchin determined that her political subdivision split analysis—showing that parts of Chatham County are “clearly racially sorted into Senate districts in a way that ensures that Black and Latino voters can only have effective influence in one of the constituent districts”—is evidence that race predominated over traditional redistricting principles in the drawing of SDs 1, 2, and 4. *Id.* at ¶¶ 158-160.
- **SD 17:** Dr. Duchin determined that her core retention/population flow analysis—showing that Black and Hispanic voters were cracked from the district—is evidence that race predominated over traditional redistricting principles in the drawing of SD 17. *Id.* at ¶¶ 122-129.
- **SD 26:** Dr. Duchin determined that her political subdivision split analysis—showing that Black and Hispanic voters were packed into SD 26—is evidence that race predominated over the drawing of SD 26. *Id.* at ¶¶ 155-157.
- **SD 48:** Dr. Duchin determined that her core retention/population flow analysis—showing the Black and Hispanic voters were cracked from the

district—is evidence that race predominated over traditional redistricting principles. *Id.* at ¶¶ 115-121. Notably, this occurred after Black and Hispanic voters were able to elect their candidate of choice, the Asian candidate Michelle Au. *Id.* ¶ 115.

- **HDs 44, 48, 49, 52, and 104:** Dr. Duchin determined that her core retention/population flow analysis indicates that Black and Latino voters were cracked from these districts just as they were on the verge of electing candidates of choice. *Id.* at ¶¶ 138-142. Dr. Duchin opined that this is evidence that race predominated over traditional redistricting principles in the drawing of these districts. *Id.*

Contrary to Defendants’ argument, Def. Mot. At 14, there is no requirement that Plaintiffs provide *direct* evidence of improper legislative intent. Circumstantial evidence that race predominated is sufficient. *See Miller*, 515 U.S. at 916. Nor, as Defendants would have it, does the existence of a partisan motive in and of itself immunize a racial gerrymander. Plaintiffs meet their burden of proof by showing “race-based districting for ultimately political reasons, leveraging the strong correlation between race and voting behavior to advance [the lawmakers’] partisan interest[.]” *Cooper v. Harris*, 581 U.S. 285, 319 n.15 (2017). Here, Plaintiffs have produced undisputed evidence voting in Georgia is heavily racially polarized, and that the lawmakers knew it. PSOF at ¶ 372. They have shown that map-drawers had only racial data (and not political data) available at the census block level, belying Defendants’ argument that political motivations were the cause of precinct splits with disparate racial impact. PSOF at ¶¶ 76-77. That alone is sufficient to raise a

dispute of fact as to whether the districting was unconstitutionally “race-based . . . for ultimately political reasons[.]” *Cooper*, 581 U.S. at 319 n.15.

But there is much more. “One, often highly persuasive way to disprove a State’s contention that politics drove a district’s lines is to show that the legislature had the capacity to accomplish all its partisan goals without moving so many members of a minority group into the district.” *Id.* at 317. Dr. Duchin has done just that. She ran a series of algorithmic experiments that altered district lines in accordance with traditional districting principle—but not considering race—with the goal of creating 100,000 additional Trump-favoring districts, and then plotted the enacted plan’s Black Voting Age Population (“BVAP”) in comparison to these partisan-advantaged plans. PSOF ¶¶ 161-177. In the middle-ranges of these plans, i.e., the most competitive districts, she found that the enacted plans were extreme outliers as to the cracking of Black voters. She concluded that the legislature could have achieved their partisan goals without moving so many voters of color, precisely the standard accepted by the Court in *Cooper*.

III. Sovereign Immunity Does Not Immunize the State of Georgia From Section 2 Claims.

Defendants’ argument that sovereign immunity immunizes one Defendant—the State of Georgia—from Section 2 claims, (Def. Mot. at 18-19), is decidedly against the weight of authority. *See Mixon v. State of Ohio*, 193 F.3d 389, 398 (6th

Cir. 1999) (holding that Congress intended to abrogate the States’ sovereign immunity under the VRA because it “specifically prohibits ‘any State . . .’ from discriminating against voters on the basis of race”); *OCA-Greater Hous. v. Texas*, 867 F.3d 604, 614 (5th Cir. 2017) (same); *see also Ga. State Conf. of NAACP v. State of Georgia*, 269 F. Supp. 3d 1266, 1274-75 (N.D. Ga. 2017) (same); *Terrebonne Par. NAACP v. Jindal*, 154 F. Supp. 3d 354, 359 (M.D. La. 2015) (same).

The Eleventh Circuit has ruled to the same effect. *Ala. State Conf. of NAACP v. Alabama*, 949 F.3d 647 (11th Cir. 2020), *cert. granted, judgment vacated sub nom. Alabama v. Ala. State Conf. of NAACP*, 141 S. Ct. 2618 (2021) (“*Ala. NAACP*”). Although the vacating of that decision may deprive it of precedential authority, it retains persuasive weight. *See DHX, Inc. v. Allianz AGF_MAT, Ltd.*, 425 F. 3d 1169, 1176 (9th Cir. 2005) (Beezer, J., concurring) (discussing persuasive effect of vacated decisions).⁴ This authority far outweighs Defendants’ reliance on a lone, unreported and therefore nonprecedential, decision, *Christian Ministerial All.*

⁴ Defendants appear to recognize this, and plead that this Court not consider it bound by Eleventh Circuit decisions. Def. Mot. at 17. But three-judge panels within this district have consistently found that they are so bound. *See, e.g., Ga. State Conf. of NAACP*, 269 F. Supp. 3d at 1278 (“[w]e do not write on a clean slate, and we are bound by Eleventh Circuit precedent”); *Ala. Legislative Black Caucus v. Alabama*, 988 F. Supp. 2d 1285, 1305 (M.D. Ala. 2013) (“[i]t is well settled that [the Court is] bound by Eleventh Circuit precedent when [it] sit[s] as a three-judge district court”).

v. Arkansas, No. 4:19-cv-402, 2020 U.S. Dist. LEXIS 262252, at *17 (E.D. Ark. Feb. 21, 2020), and on Judge Branch’s dissent in *Ala. NAACP*, 949 F.3d at 656.

IV. Defendants Are Not Entitled to Summary Judgment on the *Gingles* Preconditions (Counts II and III).

A. General legal standards

In *Thornburg v. Gingles*, 478 U.S. 30, 50-51 (1986), the Court articulated three preconditions that plaintiffs must satisfy to bring a Section 2 vote dilution claim. *First*, “the minority group must be able to demonstrate that it is sufficiently large and geographically compact to constitute a majority in a single-member district.” *Id.* at 50. *Second*, “the minority group must be able to show that it is politically cohesive.” *Id.* at 51. *Third*, “the minority must be able to demonstrate that the white majority votes sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.” *Id.* If these preconditions are met, then courts must consider the “totality of circumstances” to determine whether there is a Section 2 violation. *League of United Latin Am. Citizens v. Perry* (“*LULAC*”), 548 U.S. 399, 425 (2006).⁵ The Eleventh Circuit has noted that Section 2 vote dilution cases,

⁵ When analyzing the totality-of-circumstances, “the Court has referred to the Senate Report on the 1982 amendments,” which “identifies factors typically relevant to a § 2 claim.” *Id.* at 426. These “Senate Factors” include: (1) a history of voting-related official discrimination; (2) the extent to which voting in the state or political subdivisions at issue is racially polarized; (3) the use of voting practices that enhance the opportunity for discrimination; (4) exclusion from candidate slating; (5) ongoing

“are [normally] resolved pursuant to a bench trial,” not by way of summary judgment. *Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm’rs*, 775 F.3d 1336, 1343 (11th Cir. 2015) (acknowledging critical role trial court plays in “[s]ifting through the conflicting evidence and legal arguments”).

B. There are issues of fact as to whether Plaintiffs’ satisfy the first *Gingles* precondition.

The first part of the *Gingles* One inquiry—the “numerosity” requirement—is a straightforward mathematical question: “Do minorities make up more than 50 percent of the voting-age population in the relevant geographic area?” *Bartlett v. Strickland*, 556 U.S. 1, 18 (2009). The second part of the inquiry—the “compactness” requirement—requires a showing that it is “possible to design an electoral district[] consistent with traditional [re]districting principles[.]” *Davis v. Chiles*, 139 F.3d 1414, 1424-25 (11th Cir. 1998); *see also LULAC*, 548 U.S. at 433.

1. There are issues of fact as to whether Plaintiffs satisfy the numerosity requirement.

Defendants cannot dispute that Black and Hispanic Georgians drove the population growth in Georgia over the last ten years. PSOF ¶¶ at 72-74. Nor do

effects of discrimination in socioeconomic areas that hinder participation in the political process; (6) racial appeals in campaigns; (7) minority representation in public office; (8) lack of responsiveness to minority needs from elected officials; and (9) tenuousness of the policy underlying the challenged practice. *Id.*

Defendants dispute Dr. Duchin’s analysis that each of the illustrative districts she identifies as containing minorities making up more than 50 percent of the voting age population does just that. Rather, Defendants’ argument on numerosity is limited to the purported legal proposition that the numerosity requirement cannot be satisfied by the creation of coalition Black and Hispanic districts, which a few of Dr. Duchin’s districts are. Def. Mot. at 21-22.

However, in *Concerned Citizens of Hardee Cnty. v. Hardee Cnty. Bd. of Comm’rs*—a decision that Defendants inexplicably omit from their brief—the Eleventh Circuit squarely held that “[t]wo minority groups . . . may be a single section 2 minority if they can establish that they behave in a politically cohesive manner.” 906 F.2d 524, 526 (11th Cir. 1990). *Strickland*, the only case Defendants cite in support of their proposition, Def. Mot. at 21-22, does not say otherwise. There, the Court’s observation that “no federal court of appeals has held that § 2 requires creation of coalition districts” refers to coalition districts between minority groups *and white voters*—also known as “crossover districts”—where the minority groups did not make up the majority in a given geographic area. *Strickland*, 556 U.S. at 1242-46.

Defendants also argue that “to the extent that Plaintiffs are relying on a coalition theory, they have not offered evidence from primary elections, which

would be required to consider the degree of cohesion among minority groups.” Def. Mot. at 22. But cohesion is not germane to the first *Gingles* precondition, only to the second. In any event, Plaintiffs are aware of no case that requires consideration of primary elections for coalition districts.⁶

2. *Plaintiffs’ illustrative maps were drawn consistent with traditional redistricting principles.*

The record is replete with evidence that the “minority group” is “‘sufficiently large and geographically compact to constitute a majority’ in some reasonably configured legislative district.” *Cooper*, 581 U.S. at 301. Defendants’ arguments to the contrary are unavailing.

First, contrary to Defendants’ argument, there is no daylight between Dr. Duchin’s calling her maps “demonstratives” and the proposition that *Gingles* preconditions are intended to give the trial court confidence that “it can fashion a permissible remedy in the particular context of the challenged system.” *Nipper v. Smith*, 39 F.3d 1494, 1531 (11th Cir. 1994). Indeed, although “[p]laintiffs typically

⁶ Nowhere in the only case Defendants cite in support of this argument, *Perez*, 267 F. Supp. 3d at 760, does the court indicate that it was referring to the first *Gingles* precondition in discussing primaries. Moreover, the court merely noted that there was evidence of *non*-cohesion between Black and Hispanic voters in the primaries, *not* that Plaintiffs were required to prove the existence of cohesion in the primaries. Here, Defendants have offered no proofs of lack of cohesion between Black and Hispanic voters in the primaries or otherwise.

attempt to satisfy [the first *Gingles* precondition] by drawing hypothetical majority-minority districts,” “such illustrative plans are ‘not cast in stone’ and are offered only ‘to demonstrate that a majority-[B]lack district is feasible[.]’” *Alpha Phi Alpha Fraternity Inc. v. Raffensperger*, 587 F. Supp. 3d 1222, 1250 (N.D. Ga. 2022) (first and second alterations in original) (citing *Clark v. Calhoun Cnty.*, 21 F.3d 92, 95 (5th Cir. 1994)); *Bone Shirt v. Hazeltine*, 461 F.3d 1011, 1019 (8th Cir. 2006).

Here, Dr. Duchin testified that, during the hand-drawing process of her map-drawing, she balanced many of the traditional redistricting principles announced by the legislature’s redistricting guidelines. PSOF at ¶¶ 180-1864. While Defendants may argue as to whether Dr. Duchin struck the right balance, that is a trial issue, not an issue to be resolved on summary judgment.

In this context, Georgia itself allows for a balancing of factors—some of which are principles that must be satisfied, and others of lesser rank. *Id.* at ¶ 182. The top of the hierarchy consisted of principles that *must* be satisfied, including that the congressional plan *must* be “drawn with a total population of plus or minus one person from the ideal district size;” that all districts “*shall be*” composed of contiguous geography;” and that “all plans *will comply*” with Section 2 of the Voting Rights Act and the U.S. and Georgia Constitutions. *Id.* The guidelines also state that “each legislative district of the General Assembly *should be drawn* to achieve a

total population that is substantially equal as practicable,” while considering other redistricting principles. *Id.* As Dr. Duchin stated in her report, she kept these principles in mind and worked to ensure that her maps reflected or addressed these requirements. *See id.* at ¶¶ 178-188. *See also id.* ¶¶ at 247-248 (indicating that each district in all of Dr. Duchin’s illustrative maps are contiguous, and that the populations of each district were “tightly balanced”); *id.* at ¶ 182 (the guidelines).

Lower in the hierarchy were principles that the legislature should “consider” when drawing the maps: the boundaries of counties and precincts; compactness; and communities of interest.” *Id.* at ¶ 182. Dr. Duchin balanced and considered each of these factors when hand-drawing her illustrative plans and determined that her plans were comparable or better for each metric. *See id.* at ¶¶ 243-258.

Fittingly lowest on the scale, the guidelines note that “efforts should be made to avoid the *unnecessary* pairing of incumbents.” *Id.* at ¶¶ 182 (emphasis added). At the time of her report, Dr. Duchin did not have accurate incumbent addresses available to her, so a number of her districts did have incumbents paired—as did some in the enacted plan. *Id.* at ¶¶ 255-256. However, incumbent protection is “subordinate” to remedying violations of the VRA or Constitution. *See LULAC*, 548 U.S. at 441 (incumbent protection “cannot justify the [dilutive] effect [of a redistricting plan] on [minority] voters”). This is particularly true when, as here,

state guidelines themselves subordinate incumbency protection to other traditional redistricting principles. *Caster v. Merrill*, No. 2:21-CV-1536-AMM, 2022 WL 264819, at *68 (N.D. Ala. Jan. 24, 2022) (“we note that under the Legislature’s redistricting guidelines, the protection of incumbents is a decidedly lower-level criterion . . . and that this is consistent with the lower-level importance that criterion has been afforded in other redistricting cases”), *cert. granted before judgment sub nom. Merrill v. Milligan*, 142 S. Ct. 879 (2022) . Additionally, Defendants have not demonstrated, as a matter of undisputed fact, that the pairing of incumbents in any of Dr. Duchin’s districts rendered the district an impermissible remedial district, let alone an inadequate *Gingles* 1 plan. *See Abrams v. Johnson*, 521 U.S. 74, 84-85, 99 (1997) (approving remedial plan that “subordinated” unpairing incumbents to “other factors”).

Thus, Plaintiffs’ have set forth evidence sufficient to establish that whether Dr. Duchin’s illustrative plans are “reasonably configured,” *Raffensperger*, 587 F. Supp. 3d at 1250 (citing *Cooper*, 581 U.S. at 301), is a triable issue of fact. To the extent that Defendants’ nitpick about how reasonably configured the illustrative plans are, those objections are to be resolved at trial, not at summary judgment.

Second, Defendants argue that Dr. Duchin’s plans deal only with numerically quantifiable districting principles, and that Dr. Duchin did not have knowledge of

communities in Georgia. Def. Mot. at 20. To the contrary, Dr. Duchin testified that she reviewed quantitative *and* non-quantitative metrics apart from race, including a voluminous record of community testimony (which is the only “non-numeric” principle identified by the legislature in its redistricting guidelines) that informed her map-drawing throughout the hand-drawing process. *See* PSOF at ¶¶ 178-188.

Third, Defendants seem to argue that there is no evidence in the record that the minority “community” is geographically compact. Def. Mot. at 20. Defendants again are wrong.

First, Dr. Duchin opined that all of her illustrative maps (both at the statewide and cluster level) are comparable or better than the enacted plans in terms of compactness. PSOF at ¶¶ 243, 249-251. *See also* PSOF at ¶ 252.

Second, the Supreme Court has explained that district shape is relevant to determining whether a district satisfies the compactness inquiry. *Bush v. Vera*, 517 U.S. 952, 980 (1996); *see also Sensley v. Albritton*, 385 F. 3d 591, 596 (5th Cir. 2004) (geographical shape of proposed district “necessarily directly relates to the geographical compactness and population dispersal of the minority community in question”).

Third, Dr. Duchin created heat-maps demonstrating the compactness and density of minority population throughout the state of Georgia. PSOF at ¶ 250.

There are issues of fact as to whether Dr. Duchin drew “reasonably configured” illustrative districts that considered traditional redistricting principles.

C. There are issues of fact as to whether Plaintiffs establish *Gingles* 2 and 3.

There is overwhelming, indeed undisputed, evidence in the record that Black voters—and sometimes Black and Hispanic voters—overwhelmingly support the same candidates of choice in Georgia, so as to meet the second *Gingles* precondition. PSOF at ¶¶ 262-302. This is true for statewide elections, for each geographic cluster that Dr. Duchin analyzed for her *Gingles* 1 analysis, and for each challenged district. *See e.g. id.* at ¶¶ 262-264 (demonstrating racially polarized voting statewide); *id.* at ¶¶ 265-271 (RPV at cluster levels); *id.* at ¶¶ 272-280 (RPV at Congressional district level); *id.* at ¶¶ 281-289 (RPV at Senate district level); *id.* at ¶¶ 290-302 (RPV at House district level). This is also true for every illustrative majority-minority district that Dr. Duchin created for her *Gingles* 1 analysis. *Id.* at ¶¶ 280 (RPV at Alt CDs 3, 4, 5, 13); *id.* at ¶¶ 289 (RPV at Alt 1 SD 1 16, 17, 25, and 28 and Alt 2 SD 16 and 24); *id.* at ¶¶ 298 (HDs Alt 1 64, 74, 117, 144, 151, and 171). Further, there is similarly overwhelming evidence in the record that in every challenged district, the White majority votes as a bloc to usually defeat the candidate of choice of voters of color, so as to meet the third *Gingles* precondition. PSOF at ¶¶ 303-371.

Notably, neither Defendants nor Defendants' RPV expert dispute any of these voting patterns. PSOF ¶¶ 368-371. Instead, Defendants' proffer a single, *legal* argument for why summary judgment is appropriate on *Gingles* 2 and *Gingles* 3. Defendants—in a section littered with citations to concurring or dissenting opinions—argue that Plaintiffs have the burden of ruling out non-racial explanations for minority political cohesion or White majority bloc voting. *See* Def. Mot. § III(C).

To satisfy the second and third *Gingles* preconditions, however, Plaintiffs need not proffer evidence about the *underlying cause* of minority group cohesion or White majority bloc voting. That is because “proof of the second and third *Gingles* factors will ordinarily create a sufficient inference that racial bias is at work.” *Nipper*, 39 F.3d at 1525. To the extent such causation evidence is relevant, it is only relevant to the totality-of-circumstances analysis. *Id.* at 1513-14, 1524-26; *see also United States v. Charleston Cnty., S.C.*, 365 F.3d 341, 347-48 (4th Cir.), *cert. denied*, 543 U.S. 999 (2004); *Goosby v. Town Bd. of Town of Hempstead, N.Y.*, 180 F.3d 476, 493 (2d Cir. 1999), *cert. denied*, 528 U.S. 1138 (2000); *Milwaukee Branch of the NAACP v. Thompson*, 116 F.3d 1194, 1199 (7th Cir. 1997), *cert. denied*, 522 U.S. 1076 (1998); *Uno v. City of Holyoke*, 72 F.3d 973, 983 (1st Cir. 1995); *Raffensperger*, 587 F. Supp. 3d at 1303 (“The Court concludes as a matter of law that, to satisfy the second *Gingles* precondition, Plaintiffs need not prove the causes

of racial polarization, just its existence. . . applying the standard advocated by Defendants would undermine the congressional intent behind the 1982 amendments to the VRA—namely, to focus on the results of the challenged practices.”). And even at the totality stage, the burden is on the “defendant to rebut proof of vote dilution by showing that losses by minority-preferred candidates are attributable to non-racial causes.” *Nipper*, 39 F.3d at 1526.

Defendants expressly acknowledge this law, but ask this Court to deviate from it, relying on a misreading of the separate opinions in *Gingles*. But, even were this Court to engage in piecing together the various opinions, the fact is that eight justices agreed in *Gingles* that causation is *not* relevant to the second and third *Gingles* preconditions. Justice Brennan, joined by three other justices, unequivocally stated “the reasons black and white voters vote differently have no relevance to the central inquiry of § 2.” *Gingles*, 478 U.S. at 63. Justice Stevens joined in that part of the opinion that included this language. *See id.* Justice O’Connor, joined by two Justices and the Chief Justice agreed with Justice Brennan’s plurality that “defendants cannot rebut this showing [of the second and third *Gingles* preconditions] by offering evidence that the divergent racial voting patterns may be explained in part by causes other than race[.]” *Id.* at 100. Justice O’Connor

explained that such evidence could be considered only as part of the “overall vote dilution inquiry”—that is, during the totality-of-circumstances analysis. *Id.*

Defendants also argue that some “circuits have rejected a view of Section 2 that showing polarization is enough.” Def. Mot at 29. But the three decisions that Defendants rely on do not say that. Although *League of United Latin Am. Citizens, Council No. 4434 v. Clements*, 999 F.2d 831, 860 (5th Cir. 1993), views causation evidence as potentially relevant to *Gingles 2* and *Gingles 3*, it does not place the burden on *plaintiffs* to proffer causation evidence in support of *Gingles 2* or *3*, as Defendants argue. *Clements* held only that the district court erred when it “excluded evidence” at trial of the non-racial causes of majority political cohesion or majority white bloc voting *proffered by Defendants in rebuttal* to a showing of cohesive voting patterns. *Clements*, 999 F.2d at 850. Here, Defendants’ racially polarized voting expert conducted no analysis of his own on this issue and offers no opinion as to whether non-racial causes can explain minority cohesion or white majority bloc voting. PSOF at ¶¶ 263-264, 368-371. In fact, Defendants’ expert expressly disclaimed that he had reached that conclusion. *Id.* at ¶ 368-371.

Defendants’ reliance on *City of Holyoke* and *Nipper* falls even further from the mark. These decisions merely hold that Defendants can themselves offer evidence of non-racial causes of racially cohesive voting patterns in rebuttal to

Plaintiffs' satisfaction of *Gingles* 2 and *Gingles* 3 as part of the *totality-of-circumstances* analysis. *Nipper*, 39 F.3d at 1526 (“The standard we articulate today simply allows a defendant to rebut proof of vote dilution by showing that losses by minority-preferred candidates are attributable to non-racial causes.”); *City of Holyoke*, 72 F.3d at 983 (the second and third *Gingles* preconditions “give rise to an inference that racial bias is operating through the medium of the targeted electoral structure to impair minority political opportunities . . . [which] will endure unless and until the defendant adduces credible evidence tending to prove that detected voting patterns can most logically be explained by factors unconnected to the intersection of race with the electoral system.”). Because Defendants have not raised the issue of whether Plaintiffs' proofs as to the totality of the circumstances provide them with a basis for summary judgment, this Court may not reach the issue. In any event, Defendants have offered no evidence that the voting preferences of Georgian Black and/or Hispanic voters are attributable to non-racial causes.

Defendants also argue that “a view that racial bloc voting requires only that majority and minority voters vote differently would also make Section 2 unconstitutional” because Section 2 would no longer be a “congruen[t] and proportional[] . . . means” to remedying racial discrimination. Def. Mot. at 30-32. This argument is the epitome of hyperbole. The *Gingles* preconditions are just that

– preconditions. They are not, in and of themselves, ultimate proof of a Section 2 case. Rather, the ultimate proof is by way of the “totality of the circumstances.” “[T]o ask not merely whether, but also why, voters are racially polarized . . . would convert the threshold test into precisely the wide-ranging, fact-intensive examination it is meant to precede.” *Charleston Cnty., S.C.*, 365 F.3d at 348.

D. Proportionality Does Not Bar Plaintiffs Section 2 Challenge to the Congressional Map.

Defendants seek summary judgment on Plaintiffs’ Section 2 challenge to the enacted Congressional Map, because “the percentage of Black-preferred candidates being elected is more than roughly proportional to the percentage of Black individuals in Georgia.” Def. Mot. at 36. But as Defendants concede, “proportionality is not a safe harbor for a jurisdiction.” Def. Mot. at 36 (citing *LULAC*, 548 U.S. at 436). Indeed, as *LULAC* explains, proportionality is merely a “relevant consideration” to be weighed during the totality-of-circumstances analysis. *LULAC*, 548 U.S. at 426; accord *Wright v. Sumter Cnty. Bd. of Elections & Registration*, 979 F.3d 1282, 1289 (11th Cir. 2020).

Faced with adverse precedent, Defendants stretch it beyond recognition, quoting *Johnson v. De Grandy*, 512 U.S. 997 (1994), for the proposition that if “minority voters form effective voting majorities in a number of districts roughly proportional to the minority voters’ respective shares in the voting age population,”

no violation of Section 2 can be found. *Id.* at 1000. Defendants conveniently separate this quote from the very next sentence, which makes clear that such proportionality “is not dispositive in a challenge to single-member districting, it is a relevant fact in the totality of circumstances to be analyzed[.]” *Id.*

Defendants are also wrong on the facts. Proportionality as part of the totality analysis does not refer to “success of [the] minority candidates,” but instead “links the number of majority-minority voting districts to minority members’ share of the relevant population.” *Id.* at 1014 n.11. Thus, the relevant comparison is a comparison of the percentage of majority-Black districts over the percentage of Any-Part Black VAP. Since there are at most four majority BVAP districts (Dr. Duchin calculates just two over 50.0% BVAP) in the enacted congressional plan—less than 29% of the total number of districts—and Black Georgians comprise approximately 31.73% of the population in Georgia, PSOF ¶ 73, 195, rough proportionality would not bar Plaintiffs claims even if it were dispositive (which it is not).

E. Defendants Are Not Entitled to Summary Judgment on Intentional Discrimination.

Defendants assert that that the Court should evaluate Plaintiffs’ discriminatory purpose claim under the Fourteenth Amendment and Section 2 of the Voting Rights Act under the Supreme Court’s standard in *Miller*, 515 U.S. at 915. Def Mot. at 37. Further, Defendants contend that “in cases regarding the types of evidence that could

be used in such a claim, it has never relied on *Arlington Heights v. Metropolitan Housing Dev. Corp.*, 429 U.S. 252, 266 (1977) for the proper standard for evaluating intent claims in redistricting cases.” *Id.*

Defendants are wrong. Indeed, the Court in *Arlington Heights* itself cited to a districting case, *Wright v. Rockefeller*, 376 U.S. 52 (1964), in its explanation of the need to prove intent to show a violation of the Equal Protection Clause. *Arlington Heights*, 429 U.S. at 265. This point was expressly recognized by the Court in *Rodgers v. Lodge*, 458 U.S. 613, 617 (1982) (referring to the *Arlington Heights* Court’s reference to *Wright v. Rockefeller* in explaining that the *Arlington Heights* factors apply to claims of racially discriminatory purpose in voting cases).

Even were Defendants’ legal argument correct and the *Miller* standard applicable to Plaintiffs’ intentional discrimination claim, Plaintiffs have already demonstrated that there are material facts in dispute as to whether race predominated in the drawing of the lines. *See supra* Argument § II. Contrary to Defendants’ fallback argument, their motion fares no better if *Arlington Heights* does apply. Def. Mot. at 37-38.

The *Arlington Heights* analysis “demands a sensitive inquiry into such circumstantial and direct evidence as may be available.” 429 U.S. at 266. This inquiry involves a review of several non-exhaustive factors set out by the court. *See*

id. at 268. Specifically, the Court in *Arlington Heights* noted that the court evaluate: (1) the impact of the challenged law; (2) the historical background; (3) the specific sequence of events leading up to its passage; (4) procedural and substantive departures; (5) the contemporary statements and actions of key legislators. *See id.* at 266-268. The inferences to be drawn from evidence on these factors typically create a genuine dispute about the motivations of the legislature sufficient to defeat summary judgment. *See, e.g., Hunt*, 526 U.S. at 549-51. That is the case here.

Impact of the challenged law. Perhaps most important, Dr. Duchin’s racial gerrymander analysis, shows, district by district, how certain districts were becoming competitive, how specific blocks of Black and Hispanic voters were moved, and demonstrates that more voters of color were moved than necessary to achieve partisan ends. PSOF at ¶¶ 88-177. And Dr. Duchin’s Section 2 *Gingles* 1 analysis shows, district by district, how the legislature could have created additional majority-minority districts that could remedy the dilution of Black and Hispanic voters. PSOF at ¶¶ 189-258.

Historical background. Federal courts recognize the history of discrimination is relevant to the historical background factor. *See NAACP, Inc. by & through Myrtle Beach Branch v. City of Myrtle Beach*, 476 F. Supp. 3d 308, 323 (D.S.C. 2020) (recognizing that historical race segregation is relevant to this factor). Also, “[t]he

Eleventh Circuit has considered prior litigation as evidence when examining the historical background factor.” *Banks v. McIntosh Cnty., Georgia*, 530 F. Supp. 3d 1335, 1374 (S.D. Ga. 2021), *on reconsideration on other grounds in part*, No. 2:16-CV-53, 2021 WL 3173597 (S.D. Ga. July 26, 2021).

There is a long history of discrimination in Georgia affecting voting. PSOF at ¶¶ 39-42. Since 1945, numerous redistricting plans in Georgia have been struck down as racially discriminatory. *Id.* at ¶ 40. Between 1965 and 2013, the Department of Justice blocked 177 proposed changes to election law by Georgia and its counties and municipalities Under Section 5 of the Voting Rights Act. *Id.* at ¶ 41. Of these Section 5 objections, 48 blocked redistricting plans. *Id.* Further, in 2018, a three-judge panel sitting in the Northern District of Georgia concluded that plaintiffs in a racial gerrymandering action had introduced “compelling evidence” that “race predominated the redistricting process,” through testimonial and documentary evidence related to the conduct of Dir. Wright and others that work at the LCRO. *Id.* at ¶ 42.

Procedural and Substantive Departures. Contrary to Defendants’ slant on the evidence, Def. Mot. at 37-38, Plaintiffs’ expert, Dr. Joseph Bagley, found procedural and substantive departures in the 2021 redistricting process. Dr. Bagley opined that he found numerous public complaints in the town hall process held by

the legislature’s joint Reapportionment Committee in the summer of 2021, and during the Committee Hearings held during the special session, sufficient to support a finding of procedural and substantive departures under *Arlington Heights*. See PSOF at ¶¶ 43-71. In light of these complaints, Dr. Bagley opined that the Committee’s refusal to change the town hall process—and the special session process—in the face of these public complaints constitutes evidence of procedural and substantive departures. See *Id.* at ¶¶ 54, 66.

Additionally, “substantive departure[s] from redistricting criteria” satisfies this *Arlington Heights* factor. *LULAC v. Abbott*, 617 F. Supp. 3d 622, 632 (W.D. Tex. 2022). As explained *supra*, each district identified in the racial gerrymandering section subordinates traditional districting principles to sort citizens based on race. See PSOF at ¶¶ 88-177.

Contemporary statements and actions of key legislators. During the legislative process, Rep. Rich bemoaned that her committee had to oversee maps that comply with the Voting Rights Act. See PSOF at ¶ 66.

Sequence of events. Drawing maps “largely in secret such that minorities, and certain representatives, [are] shut out of the process . . . can support a case for discriminatory intent.” See *Abbott*, 617 F. Supp. 3d at 632. In this case, Gina Wright, the director of the Legislative and Congressional Reapportionment Office,

was primarily responsible for the technical aspects of drawing the legislative maps and took direction from Republican leadership behind closed-doors working sessions for which racial data was projected on a monitor. *See* SOF in Opposition to Defendants’ MSJ ¶¶ 95-103. Dir. Wright kept drafts for all three of her maps private in her office until the drafting process was completed. *See* PSOF at ¶ 79. Moreover, during the drafting process, Director Wright took steps to ensure that communications related to drawing the maps would be hard to disclose because she intentionally did not put them in writing. *See* PSOF at ¶ 78. Specifically, Director Wright testified during her deposition that she did not use email to communicate about redistricting maps because she did not want to “create... a record.” *Id.*

Additional Circumstantial Evidence. There is additional circumstantial evidence of intentional discrimination in the record. Contrary to Defendants’ assertion that politics and not race predominated the map drawing process is the fact that the legislature possessed racial data at the block level but not political data—which the legislature only possessed at the precinct level. *See* PSOF at ¶¶ at 79-87. In order to split precincts in such a way to achieve alleged partisan goal, Defendants necessarily had to consider racial data.

Further, Dan O’Connor, a data analyst with the LCRO, testified during his deposition that a district in Georgia that was roughly 30% black would tend to elect

Democrats and that the figure was consistent from 2014 to the present. *Id.* at ¶¶ 85-87. He also testified that if a legislator wanted to redraw such a district so that it was more likely to elect a Republican instead of a Democrat it would be necessary to lower the amount of BVAP in that district. *Id.* at ¶ 86. He further testified that in order to lessen the BVAP in such a district, one would need to either move BVAP out of the district and put it in another district or move WVAP into the district to dilute the amount of BVAP in the district. *Id.* at ¶ 87.

Summary judgment is not the appropriate vehicle for this Court to sift through these facts, determine the appropriate inferences to draw from them, and weigh them against each other, and against Defendants' proof.

CONCLUSION

For all the foregoing reasons, the Court should deny Defendants' motion for summary judgment.

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Respectfully submitted,

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LOCAL RULE 7.1(D) CERTIFICATION OF COMPLIANCE

I certify that this pleading has been prepared with Times New Roman font, 14 point, as approved by the Court in L.R. 5.1(C), N.D. Ga.

/s/ *Kurt Kastorf*
Kurt Kastorf (Georgia Bar No. 315315)
Attorney for Plaintiffs
Lawyers' Committee for Civil Rights Under Law

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GEORGIA STATE CONFERENCE OF THE)
NAACP; GEORGIA COALITION FOR THE)
PEOPLE’S AGENDA, INC.; GALEO)
LATINO COMMUNITY DEVELOPMENT)
FUND, INC.,)

Plaintiffs,

v.

STATE OF GEORGIA; BRIAN KEMP, in his)
official capacity as the Governor of the State of)
Georgia; BRAD RAFFENSPERGER, in his)
official capacity as the Secretary of State of)
Georgia,)

Defendants.

Civil Case No. 21-c5338-
ELB-SCJ-SDG

**PLAINTIFFS’ RESPONSE TO DEFENDANTS’ STATEMENT OF
UNDISPUTED MATERIAL FACTS**

Plaintiffs pursuant to Rule 56 of the Federal Rules of Civil Procedure, Local Rule 56.1, and this Court’s Individual Rule III.I submit this Response to Defendant’s Statement of Material Facts as to Which There is No Genuine Issue to be Tried.

1. The Georgia General Assembly held town hall meetings before redistricting maps were published in 2001, 2011, and 2021. Deposition of Joseph Bagley, Ph.D. [Doc. 128] (Bagley Dep.) 68:15-23, 73:25-74:9.

Plaintiffs Response:

Undisputed only to the extent that town hall meetings were conducted in the referenced years. Plaintiffs dispute any inference that the town halls provide members of the public with any reasonable or adequate means of providing informed input on the redistricting plans or the 2020 Census data to legislators because neither the proposed maps nor the 2020 Census data were available to the public prior to or at the town halls. Declaration of Jacob Canter (“Canter Decl.”) ¶ 11 (Expert Report of Prof. Joseph Bagley, (“Bagley Rep.”), 41 & 43; *id.*, 44-45 (comments from Karuna Ramachandran); *id.*, 45-46 (comments from Rep. Jackson); *id.*, 46 (comments from Rep. Alexander); *id.*, 47 (five people at the June 28, 2021, public hearing spoke about the need for ample time after the maps were proposed for the public to analyze them and provide feedback for alternatives); *id.*, 49 (three people at the June 29, 2021, public hearing spoke about the need for time and feedback between when Census data comes out and when the maps are proposed, and between when the maps are proposed and the vote on the maps); *id.*, 51 (four people at the July 27, 2021, public hearing spoke about how the public testimony would be more

valuable after the maps were proposed); *id.*, 51 (comments from Kimberly Fountain); *id.*, 55 (comments from Alex Ohanian); *id.*, 56 (comments from Marika Keelstra)).

2. The town hall meetings in 2001, 2011, and 2021 were all “listening sessions” that took community comment without legislators responding to questions. Bagley Dep. 69:25-70:8, 73:25-74:9.

Plaintiffs’ Response:

Undisputed as to the fact town hall “listening sessions” took place in these years. However, Plaintiffs dispute any inference that the “listening sessions” provided members of the public with any or adequate transparent process for providing informed input to legislators on the redistricting process or redistricting maps because they were conducted prior to the publication of the 2020 Census data and the release of any of the proposed redistricting maps. Bagley Rep., 42-43; *see also id.*, 54 (comments from Hannah Gebreselassie inquiring how the legislators planned to incorporate feedback to ensure the town hall was not just for show).

3. Redistricting has historically been conducted in special legislative sessions. Bagley Dep. Exs. 8-10.

Plaintiffs’ Response:

Undisputed that Georgia has historically conducted redistricting proceedings in special legislative session. Disputed because it is not a material fact and because the process can still be impugned with procedural and substantive departures from the normal legislative process even if redistricting has historically been conducted during special legislative sessions. *See* Bagley Rep., 41 (“[t]he public was widely critical of holding these meetings before the release of the Census data and the publication of maps. They called for ample time for analysis and feedback and map-submission after the fact.”); *id.* (“[t]he public was relentless in its call for a more transparent process, in general.”); *id.*, 42 (“[t]he public and members of the committee wanted more of a dialogue than a one-way-street of taking community comment at hearings.”); *id.* (“[h]earings were not held, according to members of the public and the committees, in the most populous areas of the state where they should have been.”); *id.* (“[m]aps ought to reflect the growth of Georgia’s minority po[p]u[la]tion.”); *id.* (members of the public asked the Committee not to “engage in packing and cracking [of minority populations] . . .”).

4. The timeline for consideration of redistricting plans in 2001, 2011, and 2021 was similar. Bagley Dep. 101:7-101:12, 105:11-15, 138:18-24.

Plaintiffs’ Response:

Undisputed that Professor Bagley agreed that the timeline was similar; but disputed as to whether this is a material fact or that any inference can be drawn that the redistricting timeline here supports entry of summary judgment against Plaintiffs. In fact, while the timeline in the three redistricting cycles may have been similar, Professor Bagley opined that the timeline “indicate[s] to me it was also rushed in those cycles,” and observed that members of the public and members of the General Assembly criticized the decision to hold the process in this rushed manner. Bagley Rep., 58-64, 69-71 (Senate map); *id.*, 64-69, 72-73 (House map); *id.*, 73-84 (Congressional map); Canter Decl. ¶ 30 (Deposition of Dr. Joseph Bagley (“Bagley Dep.”) 138:22-23).

5. The 2021 redistricting process was “generally analogous” to the 2001 and 2011 cycle. Bagley Dep. 140:13-140:17.

Plaintiffs’ Response:

Disputed. Defendants’ citation reflects only that Professor Bagley stated that the “procedural and substantive departures in the legislative process when the comparison point is the 2001 and 2011 redistricting cycles” is “generally analogous.” However, Defendants ignore other aspects of the 2021 cycle, such as the use of race when drawing the maps in ways that violate the U.S. Constitution, as reflected in the Dr. Duchin’s rebuttal report, or the decision to subordinate traditional

districting principles to racial considerations, as reflected in Dr. Duchin’s opening report. Canter Decl. ¶ 21 (Rebuttal and Suppl. Report of Dr. Moon Duchin (“Duchin Suppl. Rep.”), 1-10); Canter Decl. ¶ 3 (Expert Report of Dr. Moon Duchin (“Duchin Rep.”) § 10 at 67-79).

6. The 2001, 2011, and 2021 redistricting processes were procedurally and substantively similar to each other. Bagley Dep. 86:25-87:19.

Plaintiffs’ Response:

Undisputed only to the fact that Professor Bagley testified that the redistricting processes were procedurally and substantively similar. Disputed as to whether any inference can be drawn from this fact that the processes support entry of summary judgment against Plaintiffs. Professor Bagley’s testimony substantiates that the legislative process was not transparent and that it failed to provide the public with a meaningful opportunity to provide informed input on the maps or Census data. Further, unlike the prior cycles, the town hall meetings were conducted before the release of Census data. *See* Bagley Rep., 41 (“[t]he public was widely critical of holding these meetings before the release of the Census data and the publication of maps. They called for ample time for analysis and feedback and map-submission after the fact.”); *id.* (“[t]he public was relentless in its call for a more transparent process, in general.”); *id.*, 42 (“[t]he public and members of the committee wanted

more of a dialogue than a one-way-street of taking community comment at hearings.”); *id.* (“[h]earings were not held, according to members of the public and the committees, in the most populous areas of the state where they should have been.”); *id.* (“[m]aps ought to reflect the growth of Georgia’s minority po[p]u[la]tion.”); *id.* (members of the public asked the Committee not to “engage in packing and cracking [of minority populations] . . .”).

7. The 2020 Census data showed that the increase in the percentage of Black voters in Georgia from 2010 to 2020 was slightly more than two percentage points statewide. Deposition of Moon Duchin, Ph.D. [Doc. 134] (Duchin Dep.) 48:5-12.

Plaintiffs’ Response:

Undisputed that Dr. Duchin so testified; but disputed to the extent that Defendants mischaracterize the findings of Dr. Duchin’s report. In her report, Dr. Duchin states:

“Georgia’s fast growth is entirely due to the expansion in the population of people of color. In fact, the (non-Hispanic) White population of Georgia actually dropped from 2010 to 2020— from 5,413,920 to 5,362,156—while the state overall grew by over a million people. As a result, the population share of Black and Latino residents expanded from 39.75% to 42.75% in the time between the 2010 and the 2020 Census data release, while the White population share dropped markedly from 55.88% to 50.06%. Thus, to within a tenth of a percent, current redistricting data finds Georgia evenly split between White residents and people of color.”

Duchin Rep., § 3.3 at 8.

Further, Dr. Duchin's deposition testimony cited by Defendants is about the two-percentage point Black CVAP increase, which does not represent the overall growth of Black population in Georgia, but instead describes the relative growth of Black population vis-a-vis the decrease in White population in Georgia between 2010 and 2020. *Id.*

8. Following the delayed release of Census data in 2021, the Georgia General Assembly began working on redistricting maps ahead of the November 2021 special session. Bagley Dep. Ex. 5.

Plaintiffs' Response:

Undisputed.

9. Both chairs of the House and Senate committees with jurisdiction over redistricting sought to meet with all of their colleagues, both Republican and Democratic, to gain input on their areas of the state. Deposition of Gina Wright [Doc. 132] (Wright Dep.) 68:17-69:7.

Plaintiffs' Response:

Disputed. Plaintiff objects to Ms. Wright's testimony on the grounds that it fails to establish Director Wright has personal knowledge of whether and to what extent Senator Kennedy and/or Chair Rich sought such meetings with other

members of the General Assembly. As such, Ms. Wright's testimony constitutes inadmissible speculation and hearsay under F.R.E. 602 and 801. Plaintiffs also object that this is not a material fact because whether the Chairs of the Senate and House redistricting committees sought or attempted to meet with colleagues does not establish that the Chairs actually met with those colleagues or relied on information from them.

10. For the first time in 2021, the General Assembly created a public comment portal to gather comments. Wright Dep. 252:20-253:4.

Plaintiffs' Response:

Undisputed that the General Assembly created a public comment portal. However, Plaintiffs object that this is not a material fact because the mere fact that a public portal was created does not establish that the comments posted to the portal were taken into consideration in the drawing of the maps by legislators or Ms. Wright. In fact, Ms. Wright stated that she did not "have time to spend a lot of time reading" the public portal comments. Canter Decl. ¶ 16 (Deposition of Director Gina Wright ("Wright Dep.") 61:9-23); *see also* Duchin Rep., § 10.3 at 79-80 (describing community input).

11. After holding a committee education day with stakeholder presentations, the committees adopted guidelines to govern the map-drawing

process. Deposition of John F. Kennedy [Doc. 129] (Kennedy Dep.) 161:1-4; Deposition of Bonnie Rich [Doc. 131] (Rich Dep.) 214:19-215:7; Bagley Dep. 89:9-18.

Plaintiffs' Response:

Undisputed. However, Plaintiffs object that this is not a material fact because Dr. Duchin provides evidence that traditional redistricting principles were subordinated throughout the map-drawing process. Duchin Rep., § 10 at 67-80.

12. To draw the congressional map, Ms. Wright worked with a group to finalize a plan based on an earlier draft plan from Sen. Kennedy. Wright Dep. 28:19-30:23.

Plaintiffs' Response:

Disputed. Ms. Wright does not state in the cited deposition excerpt that the plan she worked on during the working session was based on a draft plan from Sen. Kennedy. Wright Dep. 28:19-23. Moreover, Ms. Wright testified that Sen. Kennedy did not draw the earlier version of the Congressional map which was published on the LCRO website. Wright Dep. 21:5-10.

13. Political considerations were key to drawing the congressional map, including placing portions of Cobb County into District 14 to increase political performance. Wright Dep. 111:16-112:10, 115:8-11, 115:17-24, 158:4- 21.

Plaintiffs' Response:

Disputed. None of the facts cited establish that political considerations were key to drawing the Congressional map. Wright Dep. 111:16-112:10, 115:8-11, and 115:17-24 only indicate that Sen. Kennedy, Speaker Ralston and other legislators had a political goal in mind for CD 6, but not that political considerations were key to the map-drawing or that political considerations overrode other considerations such as racial sorting. Wright Dep. 158:4-21 also only indicates there was a political justification in how CD 14 was drawn, but not that it was the key or sole consideration in how the district was drawn.

Moreover, the record is replete with evidence that race was used to achieve Defendants' purported partisan goals. *See* Canter Decl. ¶ 17 (Deposition of Robert Strangia ("Strangia Dep.") 97:17-103:13 (describing creating a formula to estimate political data at the block level, but this data is not accurate at the block level); *id.* 103:17-23 (explaining that racial data available to the legislature is accurate at the block level)); Duchin Rep. §§ 2 & 10.2 at 4-5, 72-79 (finding precinct splits reflect racial focus); Wright Dep. 10:25-11:21; 14:11-20; 27:17-32:4; 36:14-24; 63:18-21; 115:25-116:16; 145:11-22; 149:25-150:9 (Ms. Wright drew draft maps with legislators with racial data projected onto a screen).

14. Georgia's prior 2011 districts were precleared on the first attempt by the U.S. Department of Justice and were never found by any court to be unlawful or unconstitutional. Bagley Dep. 56:20-57:8, 58:4-11.

Plaintiffs' Response:

Undisputed. However, Plaintiffs object that this is not a material fact because the 2011 maps are not at issue in this case.

15. For the legislative maps, Ms. Wright first drafted "blind" maps for the House and Senate, drawing based on her own knowledge of Georgia and the historic districts. Wright Dep. 45:15-25 (Senate map); 62:17-62:24 (House map).

Plaintiffs' Response:

Undisputed that Wright testified she first drew "blind" maps. However, Plaintiffs object as vague, because Defendants fail to identify what "knowledge of Georgia and the historic districts" Ms. Wright used to draw the "blind" maps. Also disputed as to any inference that the "blind" drawing of maps does not use racial data, since Ms. Wright does not rule out in the cited testimony that her knowledge of Georgia includes knowledge of the racial composition of certain areas of the state.

16. The chairs of the House and Senate committees then met with Ms. Wright to adjust district boundaries based on the input they received. Wright Dep. 54:3-20, 77:2-7 (Senate map); 197:2-6 (House map).

Plaintiffs' Response:

Disputed. Defendants' alleged undisputed fact is incomplete. Ms. Wright explains that she also met with other legislators about the district boundaries for the maps and that counsel was also involved in drawing the boundaries for the maps. Wright Dep. 57:16-21; 177:10-13; 197:10-13. Additionally, Dan O'Connor, Ms. Wright's colleague in the Legislative and Congressional Redistricting Office of the Georgia General Assembly, testified during his deposition that he attended at least one map drawing session with legislators and potentially Ms. Wright to draw maps. Canter Decl. ¶ 18 (Deposition of Daniel J. O'Connor ("O'Connor Dep.") 68:12-21, 70:3-8.

17. Some changes requested by Democrats were included. Wright Dep. 59:5-60:7 (Sen. Rhett); Bagley Dep. 107:3-11.

Plaintiffs' Response:

Undisputed. However, Plaintiffs object that "some changes" is vague because Defendants do not specify what changes were included or to whom the Democrats requested changes. Plaintiffs also object under FRE 801 as hearsay. Plaintiffs also object this is not a material fact because incorporating one change requested by a Senator does not overcome evidence that racial considerations predominated in the drawing of the map; that it was drawn with the intent to racially sort voters; or that

it was drawn with a discriminatory purpose. *See* Bagley Rep. at 86; Duchin Rep. at 5.

18. Information about draft maps was also shared with members of the Democratic caucus, and Democratic members were able to work with the joint Reapportionment Office. Wright Dep. 223:14-224:4, 226:11-17; Bagley Dep. 116:1-7.

Plaintiffs' Response:

Disputed. Plaintiffs object as vague because Defendants do not explain the context in which Democratic members were able to work with the joint Reapportionment Office. Ms. Wright testified that her office “do[esn’t] show any map that a legislator draws without explicit permission from them or them being present to show that to whoever they choose.” Wright Dep. 41:13-41:19. Ms. Wright also testified only that Shalamar Parham requested and received block equivalency files when the maps were “being made available,” but not during the process when Ms. Wright kept the maps secret. Wright Dep. 223:14-224:4, 226:11-17; Bagley Dep. 116:1-7. Ms. Wright also testified that Leader Beverly helped introduce the plans as a “technical[.]” matter, but not that the maps were shared with Ms. Wright or others in the Democratic caucus. *See* Wright Dep. 39:17-40:6.

19. The chairs and Ms. Wright also consulted with counsel about compliance with the Voting Rights Act. Wright Dep. 92:8-20.

Plaintiffs' Response:

Disputed. Although Dir. Wright testified that she consulted with counsel about compliance with the Voting Rights Act, the cited testimony makes no mention of the Chairs. This is also not a material fact, because Defendants' assertion of attorney-client privilege over conversations during the Redistricting Process, including any advisement on the enacted maps or the Voting Rights Act, means that Plaintiffs are unable to meaningfully assess the validity or extent of any alleged consultation with counsel with respect to the enacted maps' adherence, or lack thereof, to the Voting Rights Act. Wright Dep. 50:1-50:03.

20. Although racial data was available, the chairs of each committee focused on past election data to evaluate the partisan impact of the new plans while drawing with awareness of Republican political performance. Wright Dep. 55:25-56:7; 140:3-11; 140:17-19; 257:21-258:1; 258:2-14.

Plaintiffs' Response:

Disputed. In the cited deposition testimony, Ms. Wright does not state that the Chairs of the committees focused on past election data, but rather that both racial and election data were available. Wright Dep. 55:25-56:7. Wright Dep. 258:2-14

only states that political data was “an important consideration” for the three maps, not that the Chairs of the committees focused on political data.

The record is replete with evidence that race was used to achieve Defendants’ purported partisan goals. *See* Strangia Dep. 97:17-103:13 (describing the creation of a formula to estimate political data at the block level, but this data is not accurate at the block level); *id.* 103:17-23 (explaining that racial data available to the legislature is accurate at the block level); Duchin Opening Rep. §§ 2 & 10.2 at 4-5, 72-79 (finding precinct splits reflect racial focus); Wright Dep. 10:25-11:21; 14:11-20; 27:17-32:4; 36:14-24; 63:18-21; 115:25-116:16; 145:11-22; 149:25-150:9 (Ms. Wright drew draft maps with legislators with racial data projected onto a screen).

21. When drawing redistricting plans, Ms. Wright never used tools that would color the draft maps by racial themes. Wright Dep. 259:24-260:8.

Plaintiffs’ Response:

Disputed. This statement is misleading because Ms. Wright relied on information to allow her and legislators to understand the racial sorting effects of her line drawing decisions, such as the ability to see the changes to racial composition as line changes were being made. Wright Dep. 116:23-118:25; 126:3-127:4; Wright Dep. 10:25-11:21; 14:11-20; 27:17-32:4; 36:14-24; 63:18-21; 115:25-116:16;

145:11-22; 149:25-150:9 (Ms. Wright drew draft maps with legislators with racial data projected onto a screen).

22. The office included estimated election returns at the Census block level, so political data was available across all layers of geography. Wright Dep. 140:3-11.

Plaintiffs’ Response:

Disputed. Rob Strangia, a Geographic Information Systems (“GIS”) specialist at the LCRO who participated in the map drawing process, testified that when drawing the maps, the legislature had access to racial data—but not political data—at the block level. *See* Strangia Dep. 103:17:103:23. Strangia testified that he created a formula to estimate political data at the block level, but that this data is not accurate at the block level. *Id.* 97:17-103:23.

23. The past election data was displayed on the screen with other data. Wright Dep. 140:17-19.

Plaintiffs’ Response:

Undisputed. However, the “other data” referred to in Fact No 23, above, included racial data. Wright Dep. 55:25-56:7.

24. The chairs evaluated the political performance of draft districts with political goals. Wright Dep. 178:5-22, 191:25-193:3, 206:13-207:16.

Plaintiffs Response:

Disputed. There is evidence that maps were drawn to achieve political results through impermissible racial sorting and the subordination of traditional redistricting principles. Duchin Rep. at 4-5, 10-15; Duchin Suppl. Rep. at 10.

25. After releasing draft maps, legislators received public comment at multiple committee meetings. Bagley Dep. 91:8-15, 93:8-10, 94:21-23, 95:14- 96:6, 100:8-11, 111:24-112:1, 113:6-10, 115:4-11.

Plaintiffs' Response:

Undisputed. However, the failure to take into consideration the public comments provided at these hearings is evidence which suggests that the map-drawing process was motivated by discriminatory intent. *See* Bagley Rep., § VI, 56-84.

26. Democratic leadership presented alternative plans for Congress, state Senate, and state House that were considered in committee meetings. Bagley Dep. 109:15-110:1 (Congress), 112:18-22 (Congress), 93:2-13 (Senate), 93:21-94:5 (House).

Plaintiffs' Response:

Disputed to the extent Defendants suggest the minority party's maps were seriously considered in the legislature, which passed the majority party one week after introduction. *See* Bagley Rep., § VI, 56-84.

27. After the plans were considered, they were passed by party-line votes in each committee before passing almost completely along party lines on the floor of the Senate and House. Bagley Dep. 93:14-20, 105:16-106:1, 113:22- 114:4, 115:12-17, 117:2-4.

Plaintiffs' Response:

Undisputed. However, Plaintiffs object that this is not a material fact because there was other evidence reflective of procedural departures from the normal process, including that the maps presented by Sen. Kennedy and Rep. Rich were passed only one week after introduction. *See* Bagley Rep., § VI, 56-84.

28. Dr. Bagley agreed that he couldn't say the 2021 redistricting maps were an abuse of power by Republicans. Bagley Dep. 63:25-64:3.

Plaintiffs' Response:

29. Undisputed that this was Professor Bagley's testimony. However, disputed to the extent that Defendants fail to address the fact that although Dr. Bagley testified he was not opining that there was an "outright abuse of power", he also testifies that there were public complaints of an abuse of power by Republicans. Bagley Dep. 63:11-24; Bagley Rep. at 41-42, 56-57. Further, Plaintiffs object to Fact No. 28 because proving that redistricting maps were an "abuse of power," is not material to whether the maps were drawn with racially discriminatory intent.

Additionally, there is other evidence supporting Plaintiffs' claim that the redistricting maps were drawn with racially discriminatory intent. Bagley Rep. at 41-42, 57-62, 66-68. Dr. Duchin said that she was not "criticizing Georgia for not doing enough" in her report. Duchin Dep. 81:25-82:16.

Plaintiffs' Response:

Disputed. Plaintiffs object that this is not a material fact, it is instead a mischaracterization of witness testimony and Defendants' citation is misleading. Dr. Duchin's answer to the very next question—not cited by Defendants—clarifies that she was focusing on the word "criticizing," as the purpose of her report is to demonstrate that it is possible to "get more [minority group] opportunity while still being very respectful to [traditional redistricting principles,] and that her "goal is. . . to give a framework and offer alternatives not to criticize per se." Canter Decl. ¶ 19 (Deposition of Dr. Moon Duchin ("Duchin Dep.") 81:25-83:03).

30. The enacted congressional map resulted in five districts that elected Black- and Latino- preferred candidates. Duchin Rep. ¶¶ 4.1, 6.3.

Plaintiffs' Response:

Disputed. Dr. Duchin's report does not state that the enacted congressional districts "elected" Black and Latino-preferred candidates. Dr. Duchin explains that the enacted congressional map created five "performing" districts for Black and

Latino-preferred candidates, one less than the benchmark plan. Duchin Rep., § 4.1, at 10. Further, Defendants’ citation to Duchin Report ¶ 6.3 does not support this assertion. The cited section says nothing about how many districts “elect” candidates of choice of Black or Latino voters; instead, it is a comparison of political subdivision splits across plans. *See id.*; *see also id.* § 6.3.

31. The enacted congressional map reduced the number of split counties from the 2011 plan. Duchin Report, ¶¶ 4.1, 6.3.

Plaintiffs’ Response:

Disputed to the extent that only Defendants’ citation to Duchin Report § 6.3 supports the assertion. Duchin Opening Rep. § 4.1 does not contain any information about the number of split counties in any plan.

32. The enacted state Senate map reduced the number of split counties from the prior plan. Duchin Report, ¶¶ 6.3, 6.4; Kennedy Dep. 106:4-11.

Plaintiffs’ Response:

Disputed to the extent that only Duchin Opening Rep. § 6.3 supports the assertion. Duchin Opening Rep. § 6.4 does not contain any information about the number of county splits in any of the Senate plans. Senator Kennedy’s cited testimony also does not provide any information about the number of county splits in any of the Senate plans.

33. The enacted state Senate map did not pair incumbents of either party running for re-election. Duchin Report, ¶¶ 6.3, 6.4; Kennedy Dep. 106:4- 11.

Plaintiffs' Response:

Disputed. Defendants' citations do not support this assertion. Sections 6.3 and 6.4 of Dr. Duchin's report do not provide any information about incumbent splits. Section 6.3 relates solely to the splitting of political subdivisions. Section 6.4 relates solely to the racial demographics of different plans. Similarly, the citation to Senator Kennedy's deposition testimony does not support this assertion. In the cited testimony, Senator Kennedy merely states that he "[didn't] think anyone got drawn out of their [congressional] district." Canter Decl. ¶ 20 (Deposition of John Kennedy ("Kennedy Dep.") 106:9-10). The testimony does not relate to Senate incumbency. Further, Defendants' expert Mr. Morgan stated that four incumbents were paired in the enacted senate map and did not opine about whether those incumbents were running for office. *See* Canter Decl. ¶ 31 (Rebuttal Report of John Morgan ("Morgan Rebuttal Rep.") at 13, Chart 9; Canter Decl. ¶ 22 (Deposition of John B. Morgan ("Morgan Dep.") 49:22-50:9).

34. The enacted state Senate map maintained the same number of majority-Black districts as the prior plan. Duchin Report, ¶¶ 6.3, 6.4; Kennedy Dep. 106:4-11.

Plaintiffs' Response:

Disputed to the extent that only Defendants' citation to Duchin Opening Rep. § 6.4 supports this assertion. Duchin Opening Rep. § 6.3 does not contain any information about the racial demographics of any plans. Further, the cited testimony of Senator Kennedy also does not contain any information about the racial demographics of any plans. *See* Kennedy Dep. 106:4-11.

35. The enacted state House map also reduced the number of split counties from the 2011 plan. Duchin Report, ¶¶ 6.3, 6.4.

Plaintiffs' Response:

Disputed to the extent that only Defendants' citation to Duchin Opening Rep. § 6.3 supports this assertion. Duchin Opening Rep. § 6.4 contains no information related to the number of split counties in any plan.

36. The enacted state House map increased the number of majority-Black districts from the prior plan. Duchin Report, ¶¶ 6.3, 6.4.

Plaintiffs' Response:

37. Disputed to the extent that only Defendants' citation to Duchin Opening Rep. § 6.4 supports the assertion. Section 6.3 of Dr. Duchin's report does not contain any information about the racial demographics of the plans. One of Plaintiffs' proposed Senate plans increases the number of majority-Black voting age population

(VAP) districts by three and another decreases the number of majority-Black VAP districts by six when compared with the enacted plan. Duchin Report, ¶¶ 6.4.

Plaintiffs Response:

Undisputed only as to the following facts: SD Alt Eff 1 increases the number of majority-Black VAP districts by 3. SD Alt Eff 3 reduces the number of majority-Black VAP districts by 6 but increases the number of effective districts for Black and Hispanic voters by 9. Duchin Rep. § 6.4 at 23; Duchin Rep. § 7.2; Duchin Dep. 21:01-21:20, 60:05-61:23, 63:17-77:13, 77:20-78:10.

38. Plaintiffs' proposed House plans either increase the number of majority-Black VAP districts by one or decrease them by 12 when compared with the enacted plan. Duchin Report, § 6.4; Duchin Dep. 29:15-22; 113:9- 114:8.

Plaintiffs Response:

Undisputed only as to the following facts: Plaintiffs' HD Alt Eff 1 increased the number of majority-Black VAP district by 1, the number of majority-Black or Hispanic VAP districts by 15, and the number of majority Black and Hispanic CVAP by 14. Plaintiffs' HD Alt Eff 2 map reduced the majority Black VAP districts by 5, increased the number of Black and Hispanic VAP districts by 13, and increased the number of Black and Hispanic CVAP districts by 11. HD Alt Eff 3 reduced the number of majority-Black VAP districts by 12, contains the same number of

majority-Black and Hispanic VAP districts, and reduces the number of majority-Black and Hispanic CVAP districts by 6. Duchin Rep. § 6.4 at 23; Duchin Dep. 21:01-21:20, 60:05-61:23, 63:17-77:13, 77:20-78:10.

39. Dr. Duchin's goal in creating the proposed plans was to create districts that "meet a 50 percent plus one threshold" for minority voters. Duchin Dep. 47:10-48:4; 76:2-15.

Plaintiffs Response:

Disputed. Defendants' mischaracterize Dr. Duchin's work. Defendants incorrectly imply this was Dr. Duchin's primary or only goal. Moreover, Defendants' citations do not support this assertion. Dr. Duchin's testimony in Duchin Dep. 47:10-48:4 was only in response to the question "what is the *Gingles* 1 standard for coalition districts as you understand it?" Dr. Duchin explained that she believes *Gingles* 1 demonstrative plans must contain additional "50 percent plus 1" minority group districts. Further, Dr. Duchin's testimony in Duchin Dep. 76:02-76:15 is that "in the first instance, my goal was to create *Gingles* demonstrative maps... to create *Gingles* districts, which require 50 percent plus 1, you need to have some minority population in order to achieve that." However, Dr. Duchin's testified that purpose of her *Gingles* 1 demonstrative plans was to demonstrate that it was possible to draw plans with additional majority-minority districts while also

respecting traditional redistricting principles. Duchin Dep 63:17-77:13, 122:08-123:15; Duchin Rep. § 1.1 at 3.

40. Dr. Duchin’s proposed congressional plan does not convert District 6 into a majority-Black district but instead converts District 3 to be majority Black. Duchin Dep. 119:25-120:11.

Plaintiffs Response:

Undisputed.

41. When describing the process of drawing the congressional plan, Dr. Duchin was unable to identify a reason why she connected various rural and urban areas. Duchin Dep. 58:18-59:13; 71:14-19

Plaintiffs Response:

Disputed. Defendants’ citations do not support this assertion. Dr. Duchin’s testimony in Duchin Dep. 58:18 was that her “Congress Alt” plan “connects parts of south Fulton and Clayton Counties with Troup and Meriwether Counties and Harris County in rural Georgia.” Dr. Duchin was never asked to identify a reason for why these counties were connected—she was only asked to confirm that they were, which she did. Likewise, Dr. Duchin’s testimony in 71:14-71:19 was *only* that she drew her demonstrative congressional plan the same way she drew her demonstrative house and senate plans. Dr. Duchin was not asked to “identify a reason why she

connected various rural and urban areas,” nor did the cited testimony contain any discussion of that topic. Further, Dr. Duchin testified that throughout her map-drawing process she “had certain aspects of community testimony in mind.” She also explained that her “knowledge that [she] gained” through review of community testimony “inform[ed all the map drawing” Duchin Dep. 122:08-123:08; 163:15-164:03 (“the knowledge that I gained throughout this process about areas where people are talking about shared community concerns, that probably informs all the map drawing in the back of my mind.”).

42. Dr. Duchin also could not explain the reasoning behind the various alternative configurations of her Senate and House plans, instead relying on various computer-drawn drafts. Duchin Dep. 64:24-66:20, 71:7-13, 121:13- 123:8, 139:10-20, 158:5-14, 163:15-164:3.

Plaintiffs Response:

Disputed. Defendant’s citations do not support this assertion. Dr. Duchin testifies at Duchin Dep. 64:24-66:20 that she “hand draw[s]” maps after the “algorithmic exploration” process in order to respect traditional redistricting principles (“TDP”). Dr. Duchin’s testimony at Duchin Dep. 71:07-71:13 only confirms that she drew demonstrative senate, house, and congressional maps using that same methodology. Dr. Duchin was not asked to “explain the reasoning behind

various alternative configurations” during that portion of her testimony. In her testimony at Duchin Depo. 121:13-123:08, Dr. Duchin noted that when drawing the demonstrative plan, she “balanced the principles [TDPs] that we've discussed.” When asked about why she connected certain rural and urban areas, she noted that she had “certain aspects of community testimony” in mind.” Dr. Duchin’s testimony at Duchin Dep. 158:05-158:14, in response to why she connected parts of Albany with counties on the Florida border in one of her demonstrative house plans for the HD Southwest cluster, was that she “would just repeat the explanation from earlier that says that these are intended to be demonstrations of what's possible”—in other words, that it is possible to create demonstrative plans that create additional majority-minority districts that respect TDPs. Dr. Duchin’s testimony at Duchin Dep. 158:05-14 and 163:15-164:03 pertain to her effectiveness maps, which are not *Gingles* 1 demonstratives, but instead are meant to provide insights into racial gerrymandering.

Further, Dr. Duchin explains throughout her deposition that to draw her *Gingles* 1 demonstratives, she began by using an algorithmic approach to determine whether it is possible draw additional majority-minority districts. She then used those algorithmic maps as a base and hand-drew demonstrative plans to comport with traditional redistricting principles such as compactness, political subdivision

splits, and communities of interest. *See* Duchin Dep. 18:15-19:14, 65:09 – 71:06, 122:08-123:08; 145:21-146:16 (describing effectiveness maps); 163:15-164:03.

43. Some of Dr. Duchin’s legislative plans included Senate districts with Black VAP percentages as high as 86.5% and multiple House districts with more than 80% Black VAP, including one over 90%. Duchin Dep. 123:24- 127:8, 137:22-139:2, 162:8-22.

Plaintiffs Response:

Undisputed. The citation to Moon Dep. 162:08-162:22 only refers to Dr. Duchin’s effectiveness maps, which are not material to any *Gingles* 1 analysis.

44. Dr. Duchin did not consider those districts “packed.” Duchin Dep. 123:24-127:8, 137:22-139:2, 162:8-22.

Plaintiffs Response:

Disputed to the extent this refers to any districts beyond those identified in Fact No. 43 and 44.

45. All of Dr. Duchin’s legislative plans have population deviations higher than the enacted plans. Duchin Dep. 101:18-23 (Senate), 101:24-102:2 (House).

Plaintiffs Response:

Undisputed, to the extent that “legislative plans” refers only to the house and senate plans.

46. Two of the three Senate plans have the same or more county splits than the enacted plan. Duchin Dep. 107:10-15.

Plaintiffs Response:

Undisputed to the extent that this is solely referring to the “county split” metric in Duchin Report at 22, Table 9, and not county pieces, i.e., the number of pieces counties are split into. Two of Dr. Duchin’s alternative senate plans split counties into fewer pieces than the enacted plan. Duchin Rep. at 22, Table 9.

47. All of the House plans split the same or more counties than the enacted plan. Duchin Dep. 107:16-21.

Plaintiffs Response:

Undisputed to the extent that this is solely referring to the “county split” metric in Duchin Report at 22, Table 9. All of Dr. Duchin’s alternative house plans split counties into fewer pieces than the enacted plan. Duchin Rep. at 22 (Table 9).

48. While all of the compactness scores are generally similar, Dr. Duchin also reviewed compactness reports while drawing her plans and modified them to improve the scores. Duchin Dep. 103:17-105:20, 69:11-16.

Plaintiffs Response:

Undisputed.

49. Dr. Duchin was not able to categorize whether the differences in the various compactness scores were significant. Duchin Dep. 103:17-105:14.

Plaintiffs Response:

Disputed. Dr. Duchin testified at 103:17-105:14 that she could not make generalized statements about whether average compactness scores are “significant.” However, Dr. Duchin clarifies that “it’s possible that words like ‘significant’ have crept in in individual places. But I would say generally if one plan is more compact than another on all three of these measures, Polsby Popper, Reock, and cut edges, then I’m comfortable saying that it’s generally more compact.”

50. The only consistent metric across all of Dr. Duchin’s plans is that each one increases Democratic political performance over the comparable enacted plan. Expert Report of John Morgan, attached as Ex. B (Morgan Report), ¶ 12.

Plaintiffs Response:

Disputed. This is not a statement of material fact, it is a characterization of Mr. Morgan’s evidence, for which he used only two individual elections in 2020. Further, each of Dr. Duchin’s illustrative plans create additional majority-minority districts. Duchin Rep. at 23 (Table 10); Duchin Rep. at 25.

51. Those differences run from two additional Democratic-leaning seats on the congressional plan, Morgan Report, Chart 7, to ten additional Democratic-

leaning seats on the Senate plan, Morgan Report, Chart 4, to 12 additional Democratic-leaning seats on the House plan, Morgan Report, Chart 1.

Plaintiffs Response:

Undisputed only as the fact that Mr. Morgan's report supports these assertions, based upon two elections in 2020 that he analyzed.

52. The Ga. NAACP plaintiffs put forth only one member's name in discovery and could not identify how many members were affected by redistricting. Deposition of Gerald Griggs [Doc. 136] (Griggs Dep.) 79:1-13.

Plaintiffs Response:

Disputed. This mischaracterizes Plaintiffs obligations pursuant to an agreement with Defendants. On November 21, 2022, following a meet and confer Defendants agreed that each Plaintiff would need to identify only one member for the purpose of establishing associational standing. Declaration of Crinesha Berry ("Berry Decl.") ¶ 12-14; Declaration of Julie Houk ("Houk Decl.") ¶¶ 8-9. Plaintiff, GA NAACP, subsequently updated its discovery responses and named one member. Berry Decl. ¶¶ 12-14, Houk Decl. ¶¶ 8-9. During his deposition, President Griggs also testified that he was able to determine that the GA NAACP had members impacted by the 2021 redistricting process and that while he could not "give a single number [of affected members] because [he hadn't] seen that, that research, [he knew]

it was a lot.” Canter Decl. ¶ 8 (Deposition of Gerald Griggs (“Griggs Dep.”) 78: 4-79:5). *See also* Berry Decl.; Houk Decl.

53. The Ga. NAACP never identified any legislative districts in which that member lived and only that testified that the member had previously been in congressional District 6 and now was in District 7. Griggs Dep. 79:1-13.

Plaintiffs Response:

Disputed. This is disputed to the extent it mischaracterizes Plaintiffs obligations pursuant to an agreement with Defendants. Further, President Griggs was never asked to identify which legislative districts the member he identified lived in. *See generally*, Griggs Dep.

54. The Georgia Coalition for the Peoples’ Agenda plaintiffs designated just one member to establish standing, and provided no information as to that member’s residence, their voter-registration status, or a process by which they determine they had members in all districts named in the Complaint. Deposition of Helen Butler [Doc. 138] (Butler Dep.) 74:7-76:13.

Plaintiffs Response:

Disputed. This is disputed to the extent it mischaracterizes Plaintiffs obligations pursuant to an agreement with Defendants described in response to SOF 52.

Defendant's citation mischaracterizes the Georgia Coalition for the Peoples' Agenda Plaintiff deposition testimony. The Georgia Coalition for the Peoples' Agenda Plaintiff was never asked to identify that member's residence or their voter-registration status. Despite this, Helen Butler on behalf of the Georgia Coalition for the Peoples' Agenda did testify that she did know "what district for House, Senate, and Congress the identified member lives in," and that she believed "he lives in Cobb County, in the Cobb County districts." Canter Decl. ¶ 6 (Deposition of Helen Butler ("Butler Dep.") 75:7-18). Helen Butler, also testified when asked "...does the Peoples' Agenda have a way to determine which House, Senate, and Congressional districts its individual members reside in," that they do have way to determine this including going "by [its] members, where they live, and by the voter files." *Id.* at 74:16-22. Ms. Butler further testified that working with counsel further analysis related to this was performed. *Id.* at 74:23-6.

55. The GALEO plaintiffs designated just one member to establish standing, and provided no information as to that member's residence, their voter-registration status, or a process by which they determine they had members in all districts named in the Complaint. Deposition of Geraldo Gonzalez [Doc. 139] (Gonzalez Dep.) 81:6-82:25.

Plaintiffs Response:

Disputed. This is disputed to the extent it mischaracterizes Plaintiffs obligations pursuant to an agreement with Defendants. *See* Berry Decl., Houk Decl.

Defendant's citation mischaracterizes the GALEO Plaintiff deposition testimony. The GALEO Plaintiff was never asked to identify that member's residence or their voter-registration status. Despite this, Geraldo Gonzalez on behalf of the GALEO did testify that to identify the member GALEO "looked at [their] membership list and made sure that [they] had addresses for the folks that [they] were looking at and made sure that they were in concert with what [they] were particularly looking for." Mr. Gonzalez further testified that the member resided in "DeKalb County." Canter Decl. ¶ 9 (Deposition of Gerardo Gonzalez ("Gonzalez Dep.") at 81:6-83:5); *see also* Canter Decl. ¶ 4 (Declaration of Gerardo Gonzalez (Gonzalez Decl.) ¶ 6).

56. The evidence from legislative depositions demonstrates that legislators were concerned about political performance, not race. Wright Dep. 55:25-56:7, 111:16-112:10, 115:8-11, 115:17-24, 140:3-11, 140:17-19, 158:4-21, 257:21-258:1, 258:2-14.

Plaintiffs Response:

Disputed. Defendants' citations do not reflect that legislators were not concerned about race. None of Dir. Wright's cited testimony states that race was not

a consideration. Moreover, Dir. Wright's testimony regarding other legislature's concerns is inadmissible under FRE 602 as speculation or FRE 801 as hearsay. *See* Wright Dep. 111:16-112:10; 115:8-11; 158:4-21; 258:2-14.

Furthermore, at Wright Dep. 55:25-56:7, Dir. Wright admits that both race and political data were projected onto the screen where maps were drawn. At Wright Dep. 140:3-11, 140:17-19, and 257:21-258:1, Dir. Wright admits that the political data she possesses to draw map lines at the block level and that is reflected on the screen when drafting maps is only an "estimate" that is "based on demographics." Robert Strangia explained that the demographic data at the block levels includes race information, and that the estimates are built out of the demographic data that includes race information. He also testified that the political data available to legislatures through the block-level estimate formula he created is inaccurate. Strangia Dep. At 103:3-23; 117:13-119:25.

57. Legislators had political data at all levels of geography and regularly evaluated the political performance of districts as they were drawn. Wright Dep. 140:3-11, 178:5-22, 191:25-193:3, 206:13-207:16.

Plaintiffs Response:

This statement improperly includes two facts; both are disputed. The first fact, that legislators had political data at all levels of geography, is not a material fact

because it is possible for the legislators to be concerned with both race and political performance and it is possible for the legislators to improperly rely on race to achieve political performance goals. Also, Defendants do not cite evidence to support that legislatures had political data at all levels of geography. Wright Dep. 140:3-11 refers to block-level data, and Dir Wright states that the block-level data is only an “estimate.” Robert Strangia explained that this estimate is based on demographic data at the block level that includes race information, and that the estimates are built out of the demographic data that includes race information. He also testified that the political data available to legislatures through the block-level estimate formula he created is inaccurate.

The second fact is that legislators regularly evaluated the political performance of districts as they were drawn. This is not a material fact for the same reason stated above in this response. Also, Defendants only cite three examples where Dir. Wright acknowledges that legislators evaluated the political performance of districts as they were drawn (Wright Dep. At 178:5-22, 191:25-193:3, 206:13-207:16), which is insufficient to establish that this practice “regularly” occurred, only that it occurred on those three occasions.

58. For the Congress plan, Plaintiffs only asked about Congressional District 6 (Wright Dep. 111:16-125:25, 130:22-133:17; Kennedy Dep. 176:3-

179:13), the boundary between Congressional Districts 4 and 10 (Wright Dep. 133:18-138:1, 143:5-15), Congressional District 13 (Wright Dep. 168:22-171:7, 175:5-11; Kennedy Dep. 180:1-181:21), and Congressional District 14 (Wright Dep. 152:9-158:21; Kennedy Dep. 182:2-188:1; Rich Dep. 135:13-141:9, 142:3- 16).

Plaintiffs Response:

Disputed and a mischaracterization of the evidence. To the extent this statement narrowly seeks to state that Dir. Wright, Sen. Kennedy, and Rep. Rich were asked only about CD 4, CD 6, CD 10, CD 13, and CD 14 at their respective depositions, then the statement is false and is also not material because Plaintiffs have other evidence which shows that other Congressional districts are racial gerrymanders.

Dr. Duchin's opening report provides evidence that is relevant to determining whether CD 2, CD 3, CD 4, CD 6, CD 8, CD 10, CD 13, and CD 14 are racial gerrymanders. Also, Dr. Duchin's rebuttal report provides evidence that is relevant to determining whether any of the Congressional districts are racial gerrymanders. Also, at the deposition of Dir. Wright, Plaintiffs asked questions that relate to whether any of the Congressional districts are racial gerrymanders, including questions about how all of the districts in the Congressional map were drawn, what data was relied on and considered to draw all of the districts in the Congressional

map, what were the priorities when drawing all of the districts in the Congressional map, who provided directions for drawing districts in the Congressional map, and why those directions were provided. Also, at the deposition of Sen. Kennedy, Plaintiffs asked questions that relate to whether any of the Congressional districts are racial gerrymanders, including questions about his responsibilities as Chair of the Senate committee as they relate to drawing all of the Congressional districts and “shepherding” the maps through legislation. Also, at the deposition of Rep. Rich, Plaintiffs asked questions that relate to whether any of the Congressional districts are racial gerrymanders, including questions about her responsibilities as Chair of the House committee as they relate to drawing all of the Congressional districts, including holding meetings with members of the House to receive requests regarding changes to the lines of the map, holding meetings with members of the LCRO about changes to the map lines, and receiving comments from constituents and Georgians about changes to the map lines. Duchin Rep., at 67-69, 72-76, 79-80; Duchin Suppl. Rep. ¶¶ 2.1-2.2; Wright Dep. at 8:24-9:2; 10:16-33:2, 36:6-24; 86:22-101:23; Kennedy Dep. at 32:24-33:23; Rich Dep. at 50:19-55:1.

59. In each case, Ms. Wright or the Chairs testified either unequivocally about race-neutral or political goals for the creation of each district or did not testify as to any racial motivations. *Id.*

Plaintiffs Response:

Disputed and mischaracterization of the evidence. At Wright Tr. 111:16-125:25, Dir. Wright testified that “racial data” “[was] reflected on the screen” that showed CD 6 and that the legislators who were providing her directions on how to draw CD 6 could see the screen and see changes in the racial data as changes to the lines were being made. At Wright Tr. 130:22-133:17, Dir. Wright agreed that the changes made to the lines of CD 6 reflect that CD 6 was made “more white” in the enacted Congressional map. At Kennedy Dep. 176:3-179:13, Sen. Kennedy acknowledged that he could not “name any similar policy interests that the residents of Dawson County and the residents of East Cobb” hold even though they were put together into CD 6. At Wright Dep. 133:18-138:1, and also immediately after this portion, Dir. Wright acknowledged that she has to look at the block level to make changes to lines which split precincts, and that the data at this geographic level includes “racial data.” At Wright Dep. 143:5-15, Dir. Wright only states that she does not remember what the motivations were for drawing the line that cuts through Oxford. At Wright Dep. 168:22-171:7, and also immediately after this portion, Dir. Wright acknowledged that 76% of CD 13 is Black and Latino individuals, which she considers a “high number” in some circumstances and at least “could be” a “red flag” when determining if the district is packed. At Wright Dep. 175:5-11, Dir. Wright

only states that she has no memory of drawing the lines for CD 13 or the motivations behind those lines. At Kennedy Dep. 180:1-181:21, Sen. Kennedy states nothing about the motivations or goals related to drafting CD 13. At Wright Dep. 152:9-158:21, Dir. Wright acknowledged that Austell and Powder Springs are majority people of color, that portions of both of these cities were added to CD 14, and that neither compactness principles nor preserving communities of interest can justify these changes. At Kennedy Dep. 182:2-188:1, Sen. Kennedy acknowledged that CD 14 is “predominantly white” and that Cobb County was split into four pieces to add portions of Austell and Powder Springs into CD 14. At Rich Dep. 135:13-141:9, Rep. Rich stated that CD 14 is “very rural” and that “suburban” portions of Cobb County were added into CD 14. At Rich Dep. 142:3-16, Rep. Rich did not state anything related to the motivations or goals of drawing CD 14. To the extent there is a distinction between the goals or motivations of the district line decisions and what factors predominated when making those line-drawing decisions—a distinction which Plaintiffs reject—then this fact is not material, as the question is about predominance, not goals or motivations.

60. For the Senate, Plaintiffs only asked about Senate District 17 (Wright Dep. 185:12-187:3; Kennedy Dep. 250:16-253:3) and Senate District 48 (Wright Dep. 188:8-14, 190:21-193:3; Kennedy Dep. 244:7-245:2).

Plaintiffs Response:

Disputed and a mischaracterization of the evidence. To the extent this statement narrowly seeks to state that Dir. Wright and Sen. Kennedy were only asked about SD 17 and SD 48 at their respective depositions, then the statement is false and is also not material because Plaintiffs have other evidence which shows that other Senate districts are racial gerrymanders.

Dr. Duchin's opening report provides evidence that is relevant to determining whether SD 1, SD 2, SD 4, SD 17, SD 26, SD 48, and SD 56 are racial gerrymanders. Also, Dr. Duchin's rebuttal report provides evidence that is relevant to determining whether any of the Senate districts are racial gerrymanders. Also, at the deposition of Dir. Wright, Plaintiffs asked questions that relate to whether any of the Senate districts are racial gerrymanders, including questions about how all of the districts in the Senate map were drawn, what data was relied on and considered to draw all of the districts in the Senate map, what were the priorities when drawing all of the districts in the Senate map, who provided directions for drawing districts in the Senate map, and why those directions were provided. Also, at the deposition of Sen. Kennedy, Plaintiffs asked questions that relate to whether any of the Senate districts are racial gerrymanders, including questions about his responsibilities as Chair of the Senate committee as they relate to drawing all of the Senate districts and

“shepherding” the maps through legislation. Duchin Rep. at 67-69, 72-76, 79-80; Duchin Suppl. Rep. ¶¶ 2.1-2.2; Wright Dep. at 33:4-52:5; 54:3-62:16; 86:22-101:23. Kennedy Dep. at 32:24-33:23.

61. In both cases, Ms. Wright or Chairman Kennedy testified either unequivocally about race-neutral or political goals for the creation of each district or did not testify as to any racial motivations. *Id.*

Plaintiffs Response:

Disputed and mischaracterization of the evidence. At Wright Dep. 185:12-187:3, Dir. Wright acknowledged that SD 17 “got whiter” based on the changes to the lines. At Kennedy Dep. 250:16-253:3, Sen. Kennedy acknowledged that SD 17’s Black voting age population reduced and could not provide a specific explanation for that change. At Wright Dep. 188:8-14, and immediately following this portion, Dir. Wright admits that Senator Au represented SD 48 before its lines were changed and that Sen. Kennedy was aware at that time that Senator Au is Asian. At Wright Dep. 190:21-193:3 Ms. Wright admitted that “a lot of white voters were added to SD 48” and “a lot of Latino voters were taken out of SD 48.” At Kennedy Dep. 244:7-245:2, Sen. Kennedy acknowledged that Sen. Au is Asian. To the extent there is a distinction between the goals or motivations of the district line decisions and what factors predominated when making those line-drawing decisions—a

distinction which Plaintiffs reject—then this fact is not material, as the question is about predominance, not goals or motivations.

Wright Dep. at 188:9-189:17.

62. For the House, Plaintiffs asked about House District 44 (Wright Dep. 215:16-218:17; Rich Dep. 145:21-148:4), House District 48 (Wright Dep. 213:19-215:15; Rich Dep. 148:5-149:11), House District 49 (Wright Dep. 199:14-205:8; Rich Dep. 149:15-150:6), House District 52 (Rich Dep. 150:7-21), and House District 104 (Wright Dep. 205:19-207:16, 210:7-22; Rich Dep. 150:22-152:12).

Plaintiffs Response:

Disputed and a mischaracterization of the evidence. To the extent this statement narrowly seeks to state that Dir. Wright and Rep. Rich were only asked about HD 44, HD 48, HD 49, HD 52, and HD 104 at their respective depositions, then the statement is false and is also not material (assuming that “HD 4” was a typo and that Defendants’ meant “HD 48”), because Plaintiffs have other evidence that other House districts are racial gerrymanders.

Dr. Duchin’s rebuttal report provides evidence that is relevant to determining whether any of the House districts are racial gerrymanders. Also, at the deposition of Dir. Wright, Plaintiffs asked questions that relate to whether any of the House districts are racial gerrymanders, including questions about how all of the districts

in the House map were drawn, what data was relied on and considered to draw all of the districts in the House map, what were the priorities when drawing all of the districts in the House map, who provided directions for drawing districts in the House map, and why those directions were provided. Also, at the deposition of Rep. Rich, Plaintiffs asked questions that relate to whether any of the House districts are racial gerrymanders, including questions about her responsibilities as Chair of the House committee as they relate to drawing all of the House districts, including holding meetings with members of the House to receive requests regarding changes to the lines of the map, holding meetings with members of the LCRO about changes to the map lines, and receiving comments from constituents and Georgians about changes to the map lines. Duchin Suppl. Rep. ¶¶ 2.1-2.2; Wright Dep. at 36:6-24; 62:17-69:19; 86:22-101:23; Rich Dep. at 50:19-55:1.

63. In each case, Ms. Wright and Chairman Rich testified either unequivocally about race-neutral or political goals for the creation of each district or did not testify as to any racial motivations. Id.

Plaintiffs Response:

Disputed and a mischaracterization of the evidence. At Wright Dep. 215:16-218:17, and in the portions immediately following this, Dir. Wright acknowledged that HD 44 retains only “some” of its core and that Latino populations were impacted

by the core disruption. At Rich Dep. 145:21-148:4, Rep. Rich testified that she has no recollection about drawing HD 44, though she acknowledges that HD 44 fails to keep counties whole despite this being a goal of the guidelines. At Wright Dep. 213:19-215:15, Dir. Wright recalls no goal or motivation for the composition of HD 48. At Rep. Dep. 148:5-149:11, Rep. Rich acknowledges that when she looked at draft maps racial data was reflected and “consider[ed]” though she had no specific recollection of drawing HD 48. At Wright Dep. 199:14-205:8, Dir. Wright admits that “a lot of white people were added into HD 49” and that HD 49 retained only “some” of its core. At Rich Dep. 149:15-150:6, Rep. Rich stated that she could not recall anything related to drawing HD 49. At Rich Dep. 150:7-21, Rep. Rich stated that she could not recall anything related to drawing HD 52. At Wright Dep. 205:19-207:16, Dir. Wright stated that Barrow County was split apart to draw HD 104. At Wright Dep. 210:7-22, Dir. Wright stated that she does not recall whether moving white populations into and Latino populations out of HD 104 was a goal but acknowledges that this occurred. At Rich Dep. 150:22-152:12, Rep. Rich states that she does not recall looking at HD 104. *See also* Wright Dep. at 218:18-21.

64. None of Plaintiffs’ experts besides Dr. Duchin provided opinions about district boundaries. Deposition of Peyton McCrary [Doc. 130] (McCrary Dep.)

48:19-21; Bagley Dep. 28:19-29:6; Report of Benjamin Schneer, attached as Ex. C (Schneer Report), ¶¶ 5-8.

Plaintiffs Response:

Disputed. Dr. McCrary opined on the totality of the circumstances that can be considered when deciding whether district lines have violated federal law. Dr. Bagley opined on factors that can be considered when deciding whether district lines have violated federal law. Dr. Schneer opined on whether there is racially polarized voting in the districts that were created based on those line-drawing decisions. Undisputed if Defendants are referring to the fact that only Dr. Duchin provided alternative maps in her expert report. *See generally*, Canter Decl. ¶ 10 (Expert Report of Dr. Peyton McCrary (“McCrary Rep.”)); Bagley Rep.; Canter Decl. ¶ 24 (Expert Report of Dr. Benjamin Schneer (“Schneer Rep.”)).

65. Dr. Duchin’s report evaluates core retention and “racial swaps” only for Congressional Districts 6 and 14; Senate Districts 14, 17, and 48 (with a brief reference to Senate District 7); and House Districts 44, 48, 49, 52, and 104. Duchin Report, ¶ 10.1.

Plaintiffs Response:

Disputed. This statement improperly includes three facts.

The first fact is that Dr. Duchin evaluated core retention only for CD 6 and CD 14 for the Congressional map. This is disputed. Dr. Duchin’s opening report primarily focuses on CD 6 and CD 14, but the report also makes findings that are relevant to core retention and racial swaps for CD 7 (noting that CD 7 has “more than one-in-three new voters” and that it gained voters from benchmark CD 6) and CD 4, CD 5, and CD 11 (finding that these districts gained voters from benchmark CD 6). Duchin Rep. at 67-69.

The second fact is that Dr. Duchin evaluated core retention only for SD 14, SD 17, SD 48, and SD 7 for the Senate map. This is disputed. Dr. Duchin’s opening report primarily focuses on SD 14, SD 17, SD 48, and SD 7, but the report also makes findings that are relevant to core retention and racial swaps for SD 6, SD 32, and SD 56 (stating that these districts “have less than half of their population retained”). Duchin Rep. at 67-69.

The third fact is that Dr. Duchin’s opening report evaluated core retention only for HD 44, HD 48, HD 49, HD 52, and HD 104. This is disputed. Dr. Duchin’s opening report states that “[f]ully 57 districts out of 180 were moved to positions completely disjoint from their benchmark locations” and that “a startling 32 districts were not only moved or relabeled but effectively *dismantled*, with fewer than 30,000 prior residents assigned to any single district.” Dr. Duchin also specifically stated

that the dismantling of HD 35, HD 104, and HD 109 (in addition to HD 44, HD 48, HD 49, and HD 52) caused these districts to be noncompetitive. Duchin Rep. at 67-71.

66. Dr. Duchin acknowledges that there were “many other considerations” in play besides core retention. Duchin Dep. 171:22-172:7.

Plaintiffs Response:

Undisputed.

67. Dr. Duchin acknowledged that racial population shifts are not conclusive evidence of racial predominance and that she could not say that the various metrics she reviewed showed racial predominance. Duchin Dep. 180:18-23, 198:6-21 (Congress), 200:11-20 (Congress), 201:8-21 (Senate), 202:24-203:12 (House).

Plaintiffs Response:

This statement includes two facts. The first is that Dr. Duchin acknowledged that racial population shifts are not conclusive evidence of racial predominance. This is undisputed. However, this is not a material fact because the issue whether suggestive evidence is “conclusive” evidence of racial gerrymandering is a matter for the Court. Further, States can violate the U.S. Constitution’s prohibition against racial gerrymandering through multiple pieces of evidence that race predominated

in the map drawing process where each of the pieces of evidence, standing alone, would not be conclusive evidence of racial predominance. The second fact is that Dr. Duchin could not say that the various metrics she reviewed showed racial predominance. This is disputed and a mischaracterization of the evidence. At Duchin Dep. 180:18-23, Dr. Duchin states that “racially imbalanced population transfer” are “suggestive evidence” of racial predominance in the drawing process. At Duchin Dep. 198:6-21, Dr. Duchin states that the evidence in her opening report is “patterns consistent with a packing and cracking strategy.” At Duchin Dep. 200:11-20, Dr. Duchin agrees that her evidence of split precincts in the Congressional map represents a “significant racial disparity” that is “consistent with an effort to diminish the electoral effectiveness of CD 6 for black voters.” At Duchin Dep. 201:8-21, Dr. Duchin agrees that her evidence of county splits leading to racial disparities across the Senate map is “consistent with a racial goal.” At Duchin Dep. 202:24-203:12, Dr. Duchin agrees that racial sorting splits for the House map are “consistent with a racial goal.”

68. Dr. Duchin provides information about what she says are racial splits of counties in Congressional Districts 2, 3, 4, 6, 8, 10, 13, and 14 and what she says are racial splits of precincts in Congressional Districts 4, 6, 10, and 11. Duchin Report, ¶ 10.2.1; Duchin Dep. 167:5-15, 174:9-14, 186:17-23.

Plaintiffs Response:

Undisputed. However, to the extent this statement implies that these are the only districts where Dr. Duchin provides information about county and precinct splits for the Congressional map, this is disputed. Appendix C, Table 55 to Dr. Duchin's opening report provides a complete list of county splits for the Congressional Map, which includes information about county splits to CD 1, CD 5, CD 7, CD 9, CD 11, and CD 12. Also, Figure 40 reflects precinct splits in CD 2, CD 3, CD 5, and CD 8, as well as CD 4. Duchin Rep. at Appendix C (Table 55); Appendix C (Figure 40).

69. Dr. Duchin did not look at the political data behind those county splits on the congressional plan. Duchin Report, ¶ 10.2.1; Duchin Dep. 167:5- 15, 174:9-14, 186:17-23.

Plaintiffs Response:

Disputed. Appendix C, Table 55 to Dr. Duchin's opening report reflects political data behind all of the county splits on the Congressional map, including county splits in CD 2, CD 3, CD 4, CD 6, CD 8, CD 10, CD 13, and CD 14. At section 10.2.1 of Dr. Duchin's opening report, Dr. Duchin references Appendix C. Dr. Duchin also refers to Appendix C at Duchin Dep. 167:5-15. Duchin Rep. Appendix C (Table 55).

70. The only state Senate districts Dr. Duchin discusses regarding racial splits are Senate Districts 1, 2, 4, and 26. Duchin Report, ¶ 10.2.2.

Plaintiffs Response:

Disputed. Appendix C, Table 56 to Dr. Duchin's opening report reflects county splits in Senate districts, and the racial effect of those county districts, for SD 5, SD 6, SD 7, SD 9, SD 10, SD 14, SD 15, SD 16, SD 17, SD 18, SD 20, SD 21, SD 22, SD 23, SD 25, SD 26, SD 28, SD 29, SD 30, SD 32, SD 33, SD 34, SD 35, SD 36, SD 37, SD 38, SD 39, SD 40, SD 41, SD 42, SD 43, SD 44, SD 45, SD 46, SD 47, SD 48, SD 49, SD 50, SD 55, SD 56. Dr. Duchin also identifies Senate plan county splits that impact the racial composition of the districts in her Figure 41. Dr. Duchin also identifies in Figure 42 precinct splits between SD 7 and SD 5 that impact the racial composition of the districts. Duchin Rep. at Appendix C (Table 56); Appendix C (Figure 41); Appendix C (Figure 42).

71. Dr. Duchin does not identify any state House districts with racial splits. Duchin Report, ¶ 10.2.3; Duchin Dep. 189:2-19.

Plaintiffs Response:

Disputed. Appendix C, Table 57 to Dr. Duchin's opening report reflects county splits to over 100 House districts, and the racial effect of those county splits. Dr. Duchin also identifies county splits that impact the racial composition of the

districts for the House plan in Figure 43, and precinct splits in HD 10, HD 28, HD 29, HD 32, HD 51, HD 53, HD 81, HD 88, HD 94, HD 96, HD 97, HD 108 that impact the racial composition of the districts. Duchin Rep. at Appendix C (Table 57); Appendix C (Figure 43); Appendix C (Figure 44).

72. Dr. Duchin did not describe any House districts as drawn “primarily” based on race. Duchin Report, ¶ 10.2.3; Duchin Dep. 189:2-19.

Plaintiffs Response:

Disputed. *First*, whether the house districts ‘were drawn ‘primarily’ based on race” is ultimately a legal conclusion, it is not a fact. Section 10.2.3 of the Duchin opening report reflects evidence that Dr. Duchin identifies that is consistent with racial sorting being a goal in drawing the House map, which is consistent with her treatment of evidence regarding the House map throughout, such as at Duchin Dep. 202:24-203:12, where Dr. Duchin states that her evidence of racial splits is “consistent with a racial goal.” At Duchin Dep. 189:2-19, Dr. Duchin states that Table 40 of her opening report reflects that certain House districts “were drawn in a quite racially-distinctive way.” Duchin Dep. at 202:24-203:12.

73. Dr. Duchin created her draft plans with the goal of drawing majority-minority districts. Duchin Dep. 47:10-48:4, 64:24-66:20, 71:7-13, 76:2- 15, 121:13-123:8, 139:10-20, 158:5-14, 163:15-164:3.

Plaintiffs Response:

Disputed to the extent Defendants are asserting that this is Dr. Duchin's primary or only goal. Defendants' citations do not support that assertion.

At Duchin Dep. 47:10-48:04, Dr. Duchin testifies that her understanding is that for "Gingles 1 coalition districts" one requirement is that the coalition population be "50 percent plus 1." Dr. Duchin does not specify what her goals were for drawing her illustrative plans.

At Duchin Dep. 64:24-66:20, Dr. Duchin testifies that after the algorithmic exploration phase of her work, she hand-draws maps to ensure that the maps have "50 percent plus 1" minority populations, while balancing TDPs in "a way that seems favorable." She does not testify that the primary or sole goal of her *Gingles 1* demonstrative plans was to create "50 percent plus 1 districts."

At Duchin Dep. 71:07-71:13, Dr. Duchin testifies that she drew *Gingles 1* demonstrative plans for the house and senate using the same methodology with which she drew *Gingles 1* alternative congressional plans. She does not opine upon the primary or sole goal of her *Gingles 1* map-drawing exercise.

At Duchin Dep. 76:02-76:15, Dr. Duchin merely testifies that she was "trying... to create *Gingles 1* demonstrative maps" part of which "require[s] 50 percent plus

1” minority-group population districts. Dr. Duchin does not testify that this is the primary or sole goal.

At Duchin Dep. 121:13-123:08, Dr. Duchin is asked about why she connected certain counties in her SD Atlanta module, and she replied that she was creating majority-minority districts while also keeping in mind “certain aspects of community testimony.” She does not opine that her primary or sole goal was to create majority-minority districts.

At Duchin Dep. 139:10-139:20, Dr. Duchin is only asked why she connected Albany with certain counties on the Florida border in her HD Southwest module. She does not opine upon the primary or sole goal of her *Gingles* 1 map-drawing exercise.

Duchin Dep. 158:05-158:14 refer to her effectiveness plans, which explicitly are designed *not* to prioritize creating majority-minority districts, and instead are meant solely to demonstrate effectiveness opportunities for minority voters while respecting TDPs.

74. Dr. Duchin was unable to identify why particular counties were connected on her various plans. Duchin Dep. 47:10-48:4, 64:24-66:20, 71:7-13, 76:2-15, 121:13-123:8, 139:10-20, 158:5-14, 163:15-164:3.

Plaintiffs Response:

Disputed. Defendant's citations do not support this assertion.

Dr. Duchin testifies at Duchin Dep. 64:24-66:20 that she "hand draw[s]" maps after the "algorithmic exploration" process in order to respect TDPs.

Dr. Duchin's testimony at Duchin Dep. 71:07-71:13 only confirms that she drew demonstrative senate, house, and congressional maps using that same methodology. Dr. Duchin was not asked to explain "why particular counties were connected."

At Duchin Dep. 76:02-76:15, Dr. Duchin merely testifies that she was "trying. . . to create *Gingles* 1 demonstrative maps" part of which "require[s] 50 percent plus 1" minority-group population districts. Dr. Duchin was not asked to "identify why particular counties were connected."

At Duchin Dep. 121:13-123:08, Dr. Duchin noted that when drawing the demonstrative plan, she "balanced the principles [TDPs] that we've discussed." When asked about why she connected certain rural and urban areas, she noted that she had "certain aspects of community testimony" in mind.

Dr. Duchin's testimony at Duchin Dep. 158:05-158:14, in response to why she connected parts of Albany with counties on the Florida border in one of her demonstrative house plans for the HD Southwest cluster, was that she "would just repeat the explanation from earlier that says that these are intended to be

demonstrations of what's possible”—in other words, that it is possible to create demonstrative plans that create additional majority-minority districts that respect TDPs.

Dr. Duchin's testimony at Duchin Dep. 158:05-14 and 163:15-164:03 pertain to her effectiveness maps, which are not *Gingles* 1 demonstratives, but instead are meant to provide insights into racial gerrymandering.

Further, Dr. Duchin explains throughout her deposition that to draw her *Gingles* 1 demonstratives, she began by using an algorithmic approach to determine whether it is possible draw additional majority-minority districts. She then used those algorithmic maps as a base and hand-drew demonstrative plans to comport with traditional redistricting principles such as compactness, political subdivision splits, and communities of interest. *See* Duchin Dep. 122:08-123:08; 163:15-164:03.

75. When asked about particular district decisions, Dr. Duchin fell back to her maps being “demonstrations.” Duchin Dep. 47:10-48:4, 64:24-66:20, 71:7-13, 76:2-15, 121:13-123:8, 139:10-20, 158:5-14, 163:15-164:3.

Plaintiffs Response:

Disputed. This is not a material fact, it is instead of characterization of Dr. Duchin's testimony or a legal argument. Further, Dr. Duchin's maps are demonstration maps, and that “the role of *Gingles* 1 demonstrative plans is to show

that there's a problem and to show that the problem is remediable.” Duchin Dep. at 123:09-123:15.

76. Dr. Duchin’s plans do not attempt to evaluate traditional redistricting principles beyond the ones she can represent numerically. Duchin Dep. 47:10-48:4, 64:24-66:20, 71:7-13, 76:2-15, 121:13-123:8, 139:10-20, 158:5- 14, 163:15-164:3.

Plaintiffs Response:

Disputed. Defendants’ citations do not support this assertion.

At Duchin Dep. 47:10-48:04, Dr. Duchin is not asked about what traditional redistricting principles she evaluated, she is asked to describe the numerosity requirement for coalition districts under *Gingles* 1.

At Duchin Dep. 64:24-66:20, Dr. Duchin testifies that after the algorithmic exploration phase of her work, she hand-draws maps to balance ensure that the maps have “50 percent plus 1” minority populations, while balancing TDPs in “a way that seems favorable.” She is specifically asked about “what data she has displayed” when hand-drawing the maps, and she responds “the data that you see in the report.” Dr. Duchin shortly afterwards testifies—in testimony not cited by Defendants—that in addition to this hard data, “community testimony informed my map drawing,” and that “communities of interest is a kind of a holistic consider[ation].”

At Duchin Dep. 71:07-71:13, Dr. Duchin testifies that she drew *Gingles* 1 demonstrative plans for the house and senate using the same methodology with which she drew *Gingles* 1 alternative congressional plans. She does not testify that she limited her analysis of TDPs to ones that could be “represent[ed] numerically.”

At Duchin Dep. 76:02-76:15, Dr. Duchin merely testifies that she was “trying. . . to create *Gingles* 1 demonstrative maps” part of which “require[s] 50 percent plus 1” minority-group population districts. Dr. Duchin is not asked about traditional redistricting principles at all.

At Duchin Dep. 121:13-123:08, Dr. Duchin is asked about why she connected certain counties in her SD Atlanta module, and she replied that she was creating majority-minority districts while also keeping in mind “certain aspects of community testimony.”

At Duchin Dep. 139:10-139:20, Dr. Duchin is only asked why she connected Albany with certain counties on the Florida border in her HD Southwest module. She is not specifically asked about what traditional redistricting principles she considered and does not testify that she limited her discussion of TDPs to ones that could be “represent[ed] numerically.”

Duchin Dep. 158:05-158:14 and 163:15-164:3 refer to her effectiveness plans, which are not *Gingles* 1 demonstrative plans. Further, in testimony not cited by

Defendants, Dr. Duchin notes that the point of these effectiveness plans “[are] to show that if you turn off all use of race, you can still get to lots of effective districts in ways that are very TDP respecting.” Dr. Duchin does not limit this analysis to TDPs that can be “represent[ed] numerically.” Duchin Dep. at 71:07-71:13; 154-08-154:12.

77. Dr. Duchin does not profess to have a knowledge of communities in Georgia. Duchin Dep. 47:10-48:4, 64:24-66:20, 71:7-13, 76:2-15, 121:13- 123:8, 139:10-20, 158:5-14, 163:15-164:3.

Plaintiffs Response:

Disputed. Defendant’s citations do not support this assertion.

At Duchin Dep. 47:10-48:04, Dr. Duchin is not asked about her “knowledge of communities in Georgia,” she is asked to describe the numerosity requirement for coalition districts under *Gingles* 1.

At Duchin Dep. 64:24-66:20, Dr. Duchin testifies that after the algorithmic exploration phase of her work, she hand-draws maps to balance ensure that the maps have “50 percent plus 1” minority populations, while balancing TDPs in “a way that seems favorable.” She is specifically asked about “what data she has displayed” when hand-drawing the maps, and she responds, “the data that you see in the report.” Dr. Duchin shortly afterwards testifies—in testimony not cited by Defendants—that

in addition to this hard data, “community testimony informed my map drawing,” and that “communities of interest is a kind of a holistic consider[ation].”

Dr. Duchin’s testimony at Duchin Dep. 71:07-71:13 *only* confirms that she drew demonstrative senate, house, and congressional maps using the same methodology. Dr. Duchin does not testify that she does not have a “knowledge of communities in Georgia.”

At Duchin Dep. 76:02-76:15, Dr. Duchin merely testifies that she was “trying. . . to create *Gingles* 1 demonstrative maps” part of which “require[s] 50 percent plus 1” minority-group population districts. Dr. Duchin was not asked about her “knowledge of communities in Georgia.”

At Duchin Dep. 121:13-123:08, Dr. Duchin noted that when drawing the demonstrative plan, she “balanced the principles [TDPs] that we’ve discussed.” When asked about why she connected certain rural and urban areas, she noted specifically that she had “certain aspects of community testimony” in mind.”

At Duchin Dep. 139:10-139:20, Dr. Duchin is only asked why she connected Albany with certain counties on the Florida border in her HD Southwest module. She is not asked about her “knowledge of communities in Georgia.”

78. Plaintiffs also offer a variety of plans that decrease the number of majority-Black districts while increasing the number of majority-minority districts,

primarily by combining Black and Latino individuals as a “minority” category.

Duchin Report, ¶¶ 6.4; Duchin Dep. 29:15-22; 113:9-114:8.

Plaintiffs Response:

Undisputed.

79. Plaintiffs have not offered evidence on polarization from primary elections in Georgia. Schneer Rep. at 12, 13.

Plaintiffs Response:

Disputed. Plaintiffs’ expert Dr. Schneer did offer evidence on polarization from primary elections in Georgia, by explaining that while “primary elections can be of use in an RPV analysis, but [in his view] studying them is not necessary or sufficient for drawing conclusions about racially polarized voting in Georgia general elections[;]” by explaining that “if racially polarized voting occurs in a Georgia primary election it does not necessarily imply that racially polarized voting will occur in the general election, and vice versa[;]” and by opining that “it is sufficient in this case to examine behavior in general elections in order to determine the extent of racially polarized voting in Georgia general elections.” Schneer Rep. at 12, 13.

Plaintiffs’ expert Dr. Moon Duchin further determined how likely Black and/or Hispanic voters were to be able to elect their candidate of choice in certain districts in Georgia by reviewing if the Black and/or Hispanic candidate of choice

would win in at least three out four primary elections, reflecting racially polarized voting in Georgia. Duchin Rep. at 4, 5; 18 (Table 4); 48-66 (Tables 27-39); *see also* Canter Decl. ¶ 28 (Moon Duchin Notice of Errata (“Duchin Errata”) at 4-10, Tables 52-54 (April 26, 2023)).

80. Black voters in Georgia overwhelmingly vote for Democrats. Deposition of Benjamin Schneer [Doc. 135] (Schneer Dep.) 48:14-20.

Plaintiffs Response:

Undisputed.

81. Dr. Schneer’s decision not to review any primary election results in his report undermines the usefulness of the data and analysis he presents as purported evidence of racial polarization in Georgia’s elections. Schneer Report, ¶ 20; Schneer Dep. 60:11-61:20.

Plaintiffs Response:

Disputed. This conclusory position by Defendants is not a statement of material fact. Additionally, the references to Dr. Schneer’s deposition and report cited in support of Defendant’s Fact No. 81 do not support the conclusion that his decision to not review primary elections undermines his finding of racially polarized voting in Georgia. In fact, in the references cited by Defendant, Dr. Schneer states that looking at primaries was neither necessary nor sufficient for his determination

of whether there is racially polarized voting in Georgia. Schneer Rep. at 12, 13; Canter Decl. ¶ 27 (Deposition of Dr. Benjamin Schneer (“Schneer Dep.”) 60:11-61:20).

82. Dr. Schneer’s data demonstrates two things: The race of the candidate does not change voting behavior of Georgia voters; and the party of the candidate does. Report of John Alford, attached as Ex. D (Alford Report), p. 3; Schneer Report, ¶ 21 n.18.

Plaintiffs Response:

Disputed. This is not a material fact because what is at issue is the cohesion around a candidate of choice and not the race of the candidate. Moreover, this does not accurately or completely describe Dr. Schneer’s findings in his report. In fact, during his deposition Dr. Schneer made clear that his analysis was descriptive, highlighting how Black and/or Hispanic voters vote as opposed to White voters in Georgia, as opposed to an attempt to determine the cause. Schneer Dep. 45:13-46:18; 50:19-51:9.

83. The 2021 congressional plan has five districts where Black-preferred candidates succeed. Duchin Report, ¶¶ 4.1.

Plaintiffs Response:

Undisputed to the extent that Dr. Duchin states that “the newly enacted Congressional plan makes major changes to the benchmark and does so in a way that reduces the number of performing districts for Black- and Latino-preferred candidates from 6 out of 14 (42.9%) to just 5 out of 14 (35.7%).” Duchin Rep. at 10. Disputed to the extent that Defendants rely on a different definition of Black-preferred than the definition relied on by Dr. Duchin. *See* Duchin Rep. at 17.

84. The Any-Part Black VAP for Georgia as a whole is 31.73%. Duchin Report, ¶ 3.3.

Plaintiffs Response:

Undisputed.

85. Both of Georgia’s U.S. senators are Black-preferred candidates because they are Democrats (Sen. Ossoff was elected in 2021 and Sen. Warnock was re-elected in 2022). Schmeer Report, p. 78, Table 10.

Plaintiffs Response:

Disputed. This does not accurately or completely describe Dr. Schmeer’s findings in his report. In fact, during his deposition Dr. Schmeer made clear that his analysis was descriptive, highlighting how Black and/or Hispanic voters vote as opposed to White voters in Georgia, as opposed to an attempt to determine the cause. Schmeer Dep. at 45:13-46:18; 50:19-51:9.

86. Dr. Bagley found no “obvious discriminatory intent.” Bagley Dep. 27:22-28:1.

Plaintiffs Response:

Disputed and mischaracterization of the evidence. Dr. Bagley was asked whether “in [his] view, the first Arlington Heights factor of obvious discriminatory intent wasn’t present and that’s what led [him] to look at other factors,” and he responded, “that is correct.” He thus testified that there was insufficient evidence to determine that the first Arlington Heights factor was met, which is not the same as finding some evidence that can be consistent with obvious discriminatory intent. For example, Dr. Bagley’s report states that “[t]he [General Assembly’s committee on redistricting’s] failure to respond to public calls for more transparency, more time, a reflection of the state growing minority population, and to avoid packing and cracking [during the Town Halls], constitute substantive departures” from the legislative process. Bagley Rep. at 42.

87. While Dr. Bagley analyzed the second, third, fourth, and fifth Arlington Heights factors, he did not opine that discriminatory intent was the driving factor of the legislature or that there was discriminatory intent in the legislative process of redistricting. Bagley Report, p. 7; Bagley Dep. 27:22-28:1; 123:3-14.

Plaintiffs Response:

Disputed and mischaracterization of the evidence. Dr. Bagley’s report states that “[b]ased upon my review of the evidence – the historical background of invidious voter discrimination in Georgia, particularly in redistricting; the legislative history of the bills in question; procedural and substantive irregularities in the drafting and passing of those bills; the statements made by legislators during this process; and the information made available to the public – it is my opinion that the Court has strong support for reaching a finding of discriminatory intent.” Bagley Rep. at 8. At page 7 of the Bagley report, Dr. Bagley states that he opines on the second, third, fourth, and fifth Arlington Heights factors, but not that he does not opine on the discriminatory intent in the drafting of the map or the legislative process to pass the map. Bagley Rep. at 7. At Bagley Tr. 27:22-28:1, Dr. Bagley only states that he did not find evidence of the first Arlington Heights factor. At Bagley Tr. 123:3-14, Dr. Bagley only states that he, as a historian, is not drawing the legal conclusion that there was discriminatory intent in the process, but instead is opining that the evidence shows that one can conclude that there was discriminatory intent.

88. Dr. Bagley did not opine that the specific sequence of events leading to the adoption of the plans was discriminatory, but only that it would “lend credence” to a finding of discriminatory intent. Bagley Dep. 122:14-123:1.

Plaintiffs Response:

Undisputed that Dr. Bagley so testified. Disputed to the extent that this is not a material fact because, as explained here and at Bagley Dep. 123:3-14, Dr. Bagley is offering an opinion that the evidence he has reviewed is sufficient for a court to conclude that there was discriminatory intent. Bagley Dep. at 123:3-14. Further, whether the adoption of the plans is determined to be discriminatory is a legal conclusion to be made by the court after trial.

89. Dr. Bagley did not opine that the Georgia district lines were drawn to deny voters of color their equitable right to participate in the political process, although he believed a court could make that finding. Bagley Dep. 133:11-20.

Plaintiffs Response:

Undisputed that Dr. Bagley so testified. However, this is not a material fact because Dr. Bagley is opining that the evidence which he reviewed is sufficient for a court to conclude that the district lines were drawn to deny voters of color their equitable right to participate in the political process. Bagley Dep. 133:11-20. Further, whether there is discriminatory intent based on the drawing of the district lines is a legal conclusion to be made by the court after trial.

90. Dr. Bagley found no procedural or substantive departures in the 2021 redistricting process when compared to the 2001 and 2011 processes and agreed that

the process was not rushed when compared to those prior cycles. Bagley Dep. 86:25-87:19, 138:18-24.

Plaintiffs Response:

Undisputed that Dr. Bagley so testified. However, this is not a material fact because, as Dr. Bagley explains, his notion of procedural and substantive departures is not necessarily tied to how the 2001 and 2011 processes occurred. Bagley Dep. at 86:25-87:19; 138:18-24. Further, whether the procedural and substantive departures identified by Dr. Bagley are determined to be discriminatory is a legal conclusion to be made by the court after trial.

91. Dr. Bagley found one contemporary comment that concerned him, when Chair Rich stated in committee that there was not a “magic formula” for compliance with the Voting Rights Act. Bagley Dep. 110:2-111:23, 121:11- 122:13.

Plaintiffs Response:

Undisputed that Dr. Bagley so testified. However, this is not a material fact because Dr. Bagley found other evidence which a court could rely on to find that the maps were drawn with discriminatory intent. Bagley Dep. at 110:2-111:23; 121:11-122:13. Further, whether there is discriminatory intent is a legal conclusion to be made by the court after trial.

92. Dr. McCrary did not offer any opinion about discriminatory intent or about the design of the districts. McCrary Dep. 48:9-21.

Plaintiffs Response:

Undisputed. However, this is not a material fact because other experts provide opinions about discriminatory intent, such as Dr. Duchin in her opening and rebuttal and supplemental reports, and other experts provide opinions about the design of the districts, such as Dr. Duchin in her opening report. *See* Duchin Rep. at 10-24; Duchin Suppl. Rep. at 1-6. Additionally, whether or not Dr. McCrary offered an opinion about discriminatory intent does not preclude the court from considering the evidence he did offer - such as the description of racial discrimination in redistricting in its consideration of whether there is discriminatory intent. McCrary Rep. at 8-9, 13-15, 16-21; McCrary Rep. at 24. Further, whether the design of the districts is determined to be discriminatory is a legal conclusion to be made by the court after trial.

93. Dr. Duchin did not offer any opinion about discriminatory intent, but rather offered that she could provide “evidence that might be persuasive in terms of discerning intent” but that she could not “make hard and fast conclusions about what was in the hearts and minds of the legislators or . . . staff.” Duchin Dep. 34:11-22; see also Duchin Dep. 34:23-35:6.

Plaintiffs Response:

Disputed. Providing “evidence that might be persuasive in terms of discerning intent” is the same as providing an opinion about discriminatory intent, even if it does not include making conclusions about what is in the mind of the legislator or the staff-member. Additionally, whether or not Dr. Duchin offered an opinion about discriminatory intent does not preclude the court from considering the evidence she did offer - such as the description of racial discrimination in redistricting in its consideration of whether there is discriminatory intent. *See e.g.* Duchin Dep. at 173:1-173:25; 182:15-182:19; 180:18-182:14; 189:02-189:24. Further, this is not a material fact, because whether there is discriminatory intent is a legal conclusion to be made by the court after trial.

Dated: April 26, 2023

Respectfully submitted,

By: /s/ Kurt Kastorf

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LOCAL RULE 7.1(D) CERTIFICATION OF COMPLIANCE

I certify that this pleading has been prepared with Times New Roman font, 14 point, as approved by the Court in L.R. 5.1(C), N.D. Ga.

/s/ Kurt Kastorf

Kurt Kastorf

Attorney for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GEORGIA STATE CONFERENCE OF THE)
NAACP; GEORGIA COALITION FOR THE)
PEOPLE’S AGENDA, INC.; GALEO)
LATINO COMMUNITY DEVELOPMENT)
FUND, INC.,)

Plaintiffs,

v.

STATE OF GEORGIA; BRIAN KEMP, in his)
official capacity as the Governor of the State of)
Georgia; BRAD RAFFENSPERGER, in his)
official capacity as the Secretary of State of)
Georgia,)

Defendants.

Civil Case No. 21-c5338-
ELB-SCJ-SDG

**STATEMENT OF MATERIAL FACTS WHICH PRESENT A DISPUTE OF
FACTS IN OPPOSITION TO DEFENDANTS’ MOTION FOR SUMMARY
JUDGMENT**

Plaintiffs respectfully submit this statement of material facts that present a dispute of facts in opposition to Defendants’ motion for summary judgment.

I. Standing

A. Associational Standing

1. The NAACP was founded on February 12, 1909, and is the oldest, largest and most widely recognized grassroots-based civil rights organization. *See* Declaration of Jacob Canter (“Canter Decl.”) ¶ 2 (Gerald Griggs (“Griggs Decl.”) at ¶ 3).

2. The Georgia State Conference of the NAACP (“GA NAACP”), a unit of the National NAACP, is the oldest and one of the largest, most significant organizations promoting and protecting the civil rights of African Americans and other racial and ethnic minorities in Georgia. *Id.* at ¶ 4.

3. The GA NAACP is a non-partisan, interracial, nonprofit membership organization with a mission to “eliminate racial discrimination through democratic processes and ensure the equal political, educational, social, and economic rights of all persons, in particular African Americans.” Protecting and promoting the voting

rights of Black voters, other voters of color, and underserved communities is essential to this mission. *Id.* at ¶ 5.

4. The GA NAACP is dedicated to protecting voting rights through legislative advocacy, communication, and outreach, including work to promote voter registration, voter education, GOTV efforts, and election protection. The GA NAACP advocates for census participation and fair redistricting maps. *Id.* at ¶ 6.

5. The, the GA NAACP has approximately 10,000 members across approximately 180 local units, residing in at least 120 counties in Georgia. *Id.* at ¶¶ 7-9; *see also* Griggs Dep. 34: 4-6.

6. The GA NAACP has numerous—often hundreds—of members in each district challenged as a racial gerrymander. Griggs Decl. at ¶¶ 10-11.

7. In each voting rights cluster analyzed by Plaintiffs’ mapping expert, Dr. Moon Duchin, the GA NAACP has numerous—often hundreds—of members who reside in majority-white districts in the enacted cluster, but in majority-minority illustrative districts in the same cluster in one of Dr. Duchin’s illustrative maps. *Id.* at 12. *See also* Canter Decl. ¶ 3 (Expert Report of Moon Duchin (“Duchin Rep.”) at 25-39).

8. GALEO Latino Community Development Fund, Inc. (“GALEO”) was founded in 2004 and works to “increase civic engagement and leadership

development of the Latinx community across Georgia.” *See* Canter Decl. ¶ 4 (Declaration of Gerardo Gonzalez (“Gonzalez Decl.”) at ¶ 3); *see also* Declaration of Crinesha Berry (“Berry Decl.”) at ¶ 14 (Ex. 8).

9. Protecting and promoting the voting rights of Georgia’s Latinx U.S. citizens is essential to this mission. The organization devotes significant time and resources to conducting voter registration drives, voter outreach, assistance with voter ID and “Get Out The Vote” efforts to increase turnout of Latinx voters, and advocacy for census participation and fair redistricting maps. *See* Gonzalez Decl. at ¶ 4; Berry Decl. at ¶ 14 (Ex. 8).

10. GALEO has over 230 members in Georgia, in over 35 counties and 70 cities. *See* Gonzalez Decl. at ¶ 5-7.

11. GALEO has at least one member in certain districts challenged as a racial gerrymander, including enacted Congressional Districts 2, 3, 4, 6, 8, 10, 13, 14; enacted Senate Districts 2, 4, 14, 48; and enacted House Districts 44, 48, 52, 104. *Id.* at ¶ 8.

12. The Georgia Coalition for the People’s Agenda (“GCPA”), is a Georgia not-for-profit corporation with its principal place of business located in Atlanta, Georgia. *See* Canter Decl. ¶ 5 (Declaration of Helen Butler (“Butler Decl.”) at ¶ 3).

13. The GCPA encourages voter registration and participation, particularly among Black and other underrepresented communities. The GCPA’s support of voting rights is central to its mission. The organization has committed and continues to commit, time, and resources to conducting voter registration drives, voter education, voter ID assistance, election protection, census participation, fair redistricting maps, other get out the vote (“GOTV”) efforts in Georgia, such as “Souls to the Polls,” “Pews to the Polls” and other initiatives designed to encourage voter turnout, and impact litigation involving voting rights issues. *Id.* at ¶ 4; Berry Decl. at ¶ 14 (Ex. 7).

14. The GCPA is a coalition of more than 30 organizations, which collectively have more than 5,000 individual members across the state of Georgia in various cities and counties. *See* Butler Decl. at ¶ 5.

15. The GCPA has at least one member in certain districts challenged as racial gerrymanders, including: Congressional Districts 2, 3, 4, 8, 13 and Senate Districts 2 and 26. *Id.* at ¶ 8.

16. The GCPA has at least one member who resides in majority-white Congressional district 3 in the enacted plan but would reside in majority-minority CD 3 in one of Plaintiffs’ mapping expert’s illustrative plans. *Id.* at ¶ 9.

B. Organizational Standing

17. On November 14, 2022, counsel for Plaintiffs informed counsel for Defendants via email that “Plaintiffs agree to waive any argument that they can support organizational standing by showing financial diversion, on the condition that the State withdraws Interrogatory No. 3 and RFPs 10-12 and agrees not to seek similar evidence, i.e. via deposition questions on financial diversion.” *See Berry Decl.* at ¶ 10 (Exhibit 6).

18. Counsel for Plaintiffs further noted that “Plaintiffs still intend to support organizational standing by showing diversion of non-financial resources, such as activities specifically for the redistricting plans that divert time, personnel, and other non-financial resources from Plaintiffs’ usual activities.” *See id.* (Exhibit 6).

19. On November 9, 2022, counsel for Defendants agreed to this. *See id.*

20. Each Plaintiff organization had to divert resources from core projects and activities as a result of the enactment of the redistricting plans. *See Canter Decl.* ¶ 6 (Deposition of Helen Butler (“Butler Dep.”) 23:22-36:14; 50:04-54:09 (describing resources diverted from the GCPA’s core activities and projects)); *see also* Canter Decl. ¶ 7 (Deposition of Cynthia Battles (“Battles Dep.”) 16:08-24:11 (same)); Canter Decl. ¶ 8 (Deposition of Gerald Griggs (“Griggs Dep.”) 26:03-33:14; 47:24-48:24 (describing resources diverted from the NAACP’s core activities

and projects)); Canter Decl. ¶ 9 (Deposition of Gerardo Gonzalez (“Gonzalez Dep.”) 41:05-59:24 (describing resources diverted from GALEO’s core activities and projects)).

21. President Gerald Griggs of the GA NAACP testified during his deposition that “[t]o the best of [his] knowledge, prior to [his] time as the president and up till now, [GA NAACP has] had to shift [its] organizational philosophy and resources to [make] sure that the impact of the new maps [did] not substantially reduce the voting power of black people in communities of color throughout the State.” Griggs Dep. 26: 8-13.

22. He also testified that the GA NAACP had to “shift [its] resources from [its] main pillars to focus directly on combating the significant impact of [redistricting].” *See* Griggs Dep. 26: 22-24.

23. He further testified that the GA NAACP “... had to shift resources from [its] focus, which was racial discrimination, civil rights violations, to focusing on making sure there was no dilution through the [redistricting] plan and implementation.” *See* Griggs Dep. 28: 17-21.

24. With respect to voter education programs, President Griggs testified that GA NAACP had to “... shift [its] messaging strategy and our overall strategy to get people to understand that[...] many of the congressional districts that they now

live in will be drastically changed, so polling precincts will be changed, their representatives will be changed, and that they need to understand what the impact that would have on them. Voter registration drives, if you were registered to vote, especially with the voting purges, you would have to make sure your registration is still up to date and good, and that you have to make sure that you are still in whatever district you were in or you may have be moved to another district. So [GA NAACP] had to educate people, and [...] had to make sure people were aware, and [...] had to make sure people understood that they still had the opportunity, through the Town Halls and through the hearings, to be present to give voice to what was about to happen, but also be prepared for the outcome of what would happen. None of that [GA NAACP] would be doing but for the issue of re-districting...” *See* Griggs Dep. 29:23-30:20; *see also* 30:20-31:1 (describing activities GA NAACP would have done instead of focusing on redistricting).

25. President Griggs testified that a “substantial” number of volunteers were diverted from GA NAACP’s normal efforts to combating effects of redistricting. *See* Griggs Dep. 31:9-17.

26. President Griggs further testified that GA NAACP had employees that “primarily focused on getting the message out and planning the programming around pushing back on [redistricting,] [s]o [...] they were working on that more than they

were working on anything else that [was] a part of the pillars of [the GA NAACP] strategy to make sure we advance the lives of colored people in the State.” *See* Griggs Dep. 32: 8-14.

27. Finally, President Griggs testified that without having to engage with redistricting the GA NAACP “... would have dedicated more resources to the actual voter mobilization and get out to vote earlier than [it] did, because [it was] focused on [redistricting] while in the middle of the municipal races. So [the GA NAACP] had to shift significant resources away from GOTV for municipal races to deal with special session as well as voter education of what was happening during that period in 2021.” *See* Griggs Dep. 34: 13-21.

28. Gerardo Gonzalez, Chief Executive Officer (CEO) of the GALEO, testified during his deposition that after the enactment of the maps GALEO engaged in the effort to “educate and inform [its] community about the Georgia legislative efforts to diminish the voting strength of minority communities across the state of Georgia by unfairly cracking and packing [its] communities to dilute the growth of communities power in the legislative process through the redistricting process.” Gonzales Dep. 43: 18-25; *see also* 44: 19-23 (testifying that GALEO had to educate its members “...about the impact that [the redistricting had] on [its] community with the cracking and packing and why [GALEO] believed that happened.” He also

testified that GALEO had to “inform and educate [its] community about the new districts in which they were going to be voting”).

29. He further testified that in response to the enactment of the maps GALEO’s messaging had to change “adding another topic to what [they] were talking to voters about [was] a diversion of resources that [they were] doing associated with the work that [they were] doing” because “had the districts not changed, that’s not something [GALEO] would have talked about because [its members] would be able to exercise their right to vote without having to understand that there was a new district that they were voting in.” Gonzales Dep. 48:3-12.

30. He also testified that following the enactment of the maps, among other hostile legislative actions, GALEO “increase[d] [its] outreach efforts” which was a change or expansion in the number of volunteers GALEO utilizes in outreach efforts. Specifically noting that GALEO “had to increase [its] number of volunteers in [its] targeted outreach to [its] community to ensure that [it was] adequately educating and informing [its] community about the changes in districts, as well as changes in law.” Gonzales Dep. 56:1-12; 56:17-21.

31. Finally, he testified that since the 2020 census, GALEO staff has increased from four people to fifteen, and that as a result of efforts by the Georgia legislature to dilute the ability of the minority community to exercise its right to vote

GALEO had to “increase ... staff resource allocation to ensure [it] can continue to engage and educate [its] community about exercising the right to vote, given the changes in the law...” including, but not limited to, the redistricting process. Gonzales Dep. 58: 13-24.

32. Helen Butler, Executive Director of GCPA, testified during her deposition that GCPA “...[has] a very limited staff...[and] had to assign and prioritize the activities of [its] staff and volunteers that work with [them] to be able to accomplish a lot of things that were impacted by the redistricting[, which...] took [GCPA’s] time and energies away from doing ... other activities [like...] trying to get our citizen review boards adopted throughout the state.” Butler Dep. 24:15-22.

33. She further testified that GCPA had to “try to prioritize [its] efforts that [it] normally [did] in a normal election cycle with voter registration, education, mobilization, and election protection [while ...] trying to accomplish educating the public about the redistricting process, how it was happening, how it would impact the communities [such that GCPA] had to really reorganize and reprioritize [its] limited staff and volunteers that could do the work.” Butler Dep. 24:24-25; 25:1-7.

34. While not able to list a specific percentage, Ms. Butler testified that “a large portion of [GCPA] activities had to be diverted to holding different town hall hearings” and that at least one employee had to “spend most of her time at hearings,

trying to get people educated about the process, how they could have an impact, trying to help people know -- get tools to really draw their own maps to be engaged in the redistricting process because [it was] critical.” Butler Dep. 25:13-21; *see also* Battles Dep. 16:08-17:22 (describing changes in responsibilities in light of redistricting).

35. She also testified that a “...large portion of that, our time and resources, were diverted to ... [d]oing the meetings, developing materials, all of those things that we [GCPA] had to do, that could have been spent on the other issues that [GCPA does], like criminal justice, like education equity, like improving our economic equity in the [] the state [such that GCPA] could not do those effectively [because GCPA] had to devote more time to the redistricting process.” Butler Dep. 26:6-13.

36. She added that while GCPA sometimes host townhalls, since redistricting “[GCPA has] been doing, more frequently, town halls with regards to redistricting to make sure [GCPA] reach[es] the people so that they know who is representing them and how it impacts their communities.” Butler Dep. 35:13-17.

37. She further explained that while GCPA generally engages in phone banking and texting “... the messaging has [had] to be diverted to other things, not issues like education equity, not like criminal justice... [g]etting those citizen review boards that [GCPA has] been trying to do or economic justice equity issues, [instead

GCPA was] spending more time doing [phone banking and texting with] regards to polling changes and [...] how redistricting has impacted the communities.” Butler Dep. 35:23-36:7.

38. Ms. Butler testified that programs that the GCPA would not be able to commit to due to its work combating the effects of the redistricting maps included “education initiatives, working with parents with regards to schools and involvement in schools getting community schools[,]” “economic empowerment [initiatives]” and “getting Medicaid expansion for health care.” Butler Dep. 52:13-53:17.

II. The Sequence of Events Leading to the Passage of the Redistricting Plans and Procedural and Substantives Departures.

A. Historical Background

39. There is a long history of discrimination in Georgia affecting voting. *See* Canter Decl. ¶ 10 (Expert Report of Dr. Peyton McCrary (“McCrary Rep.”) ¶ 11).

40. Since 1945, numerous redistricting plans in Georgia have been struck down as racially discriminatory. *See* McCrary Rep. ¶¶ 11, 17-18, 21-26. Canter Decl. ¶ 11 (Expert Report of Dr. Joseph Bagley (“Bagley Rep.”) at 13-31, 33-34).

41. Between 1965 and 2013, the Department of Justice blocked 177 proposed changes to election law by Georgia and its counties and municipalities

Under Section 5 of the Voting Rights Act. McCrary Rep. ¶ 31. Of these Section 5 objections, 48 blocked redistricting plans. *Id.*

42. In 2018, a three-judge panel sitting in the Northern District of Georgia concluded that plaintiffs in a racial gerrymandering action had introduced “compelling evidence” that “race predominated the redistricting process,” through testimonial and documentary evidence related to the conduct of Dir. Wright and others that work at the LCRO. Bagley Rep. 39-40; *see also Georgia State Conf. of NAACP v. Georgia*, 312 F. Supp. 3d 1357, 1364-65 (N.D. Ga. 2018).

B. The “Town Halls”

43. Dr. Joseph Bagley is an Assistant Professor of History at Georgia State University, Perimeter College. Bagley Rep. at 3.

44. Dr. Bagley’s specific areas of study are United States constitutional and legal history, politics, and race relations, with a focus on the Deep South. *Id.*

45. Dr. Bagley analyzed, among other things, the sequence of events and legislative history leading to the passage of the redistricting plans. *Id.* at 6.

46. During the summer of 2021, the Senate Committee on Reapportionment and Redistricting and the House Committee on Reapportionment and Redistricting formed a joint Reapportionment Committee for the purpose of holding a series of redistricting “Town Halls.” *Id.* at 43-56.

47. Dr. Bagley reviewed the public testimony given at each of the town halls. *Id.* at 41-56.

48. Dr. Bagley opined that throughout the town hall process: “The public was widely critical of holding these meetings before the release of the Census data and the publication of maps. They called for ample time for analysis and feedback and map-submission after the fact.” *Id.* at 41.

49. Dr. Bagley opined that throughout the town hall process: “The public was relentless in its call for a more transparent process, in general.” *Id.*

50. Dr. Bagley opined that throughout the town hall process: “The public and members of the committee wanted more of a dialogue than a one-way-street of taking community comment at hearings.” *Id.* at 42.

51. Dr. Bagley opined that throughout the town hall process: “Hearings were not held, according to members of the public and the committees, in the most populous areas of the state where they should have been.” *Id.*

52. Dr. Bagley opined that, throughout the process, members of the public testified that “[m]aps ought to reflect the growth of Georgia’s minority po[p]u[la]tion.” *Id.*

53. Dr. Bagley opined that members of the public asked the Committee not to “engage in packing and cracking [of minority populations]” *Id.*

54. Dr. Bagley opined that the Committee’s refusal to change the town hall process in the face of these public complaints constitutes evidence of procedural and substantive departures. *See Id. See also* Bagley Dep. 118:04-118:11.

C. Legislative History

55. On September 23, 2021, Governor Brian Kemp ordered a special session of the General Assembly to commence on November 3, 2021. Bagley Rep. at 57.

56. Five days later, the Legislative Congressional and Reapportionment Office (“LCRO”) publicly posted the first draft congressional map—sponsored by Senator Kennedy and Lieutenant Governor Duncan. *Id.*

57. On November 2nd, 2021, just one day before the start of the special session, the LCRO published draft House and Senate plans sponsored by Chair Rich and Chair Kennedy, respectively. *Id.* at 58.

58. Between September 23 and November 3, 2021, the legislature did not hold any town halls to solicit public feedback. *See generally*, Bagley Rep. at 43-58.

59. The Senate Legislative and Congressional Reapportionment Committee held a hearing and solicited public comment just two days after the draft senate plan was released to the public. *Id.* at 58-62.

60. The House Legislative and Congressional Reapportionment Committee held a hearing and solicited public comment on the same day it released a revised house map to the public. *Id.* 66-68.

61. The Senate Legislative and Congressional Reapportionment Committee held a hearing and solicited public comment on a congressional map that had been released to the public just hours before the meeting. *Id.* at 73.

62. SB 2EX—the congressional map—was sent to the Governor for his signature on November 30, 2021, just three weeks after the start of the special session. *See* Canter Decl. ¶ 12 <https://www.legis.ga.gov/legislation/60894>, related to the Congressional map, was passed by the Senate on November 9, 2021.

63. SB 1EX—the senate map—was sent to the Governor’s Office on November 30, 2021, just three weeks after the start of the special session. *See* Canter Decl. ¶ 13 <https://www.legis.ga.gov/legislation/60894/>.

64. HB 1EX—the state house map—was sent to the Governor for his signature on November 29, 2021, just three weeks after the start of the special session. *See* Canter Decl. ¶ 14 <https://www.legis.ga.gov/legislation/60897>.

65. The Governor delayed signing the redistricting plans for almost a month, until December 30, 2021. *See* Canter Decl. ¶ 15 (Def. Suppl. Resp. to Plaintiffs Second Set of Interrogatories at 4-5).

66. Based on his analysis of the legislative history, *id.* at 58-88, Dr. Bagley opined that “The public made consistent demands for more transparency, but the process was still carried out behind closed doors with staff and counsel,” which were ignored. Bagley Rep. at 56. He also opined that Chair Rich’s statement that the VRA was “unfair” is contemporaneous evidence relevant to intentional discrimination. *Id.* at 57.

67. The legislature used the 2001 redistricting process as an excuse for ignoring the public’s calls for transparency, which Dr. Bagley opined “is both a procedural and substantive departure – substantively, there is nothing in the committee guidelines that instructs committees or the General Assembly as a whole to fashion its behavior and actions, procedurally, based on previous cycles.” *Id.*

68. Dr. Bagley opined that his analysis revealed the public was concerned with the packing and cracking of populations of color. *Id.*

69. Dr. Bagley opined that the public was “concern[ed] that women of color, specifically... congresswoman Lucy McBath, were being targeted.” *Id.*

70. Dr. Bagley opined that members of the public were concerned that “Voters of color were being manipulated again for partisan advantage in places like Henry, Cobb, and Gwinnett counties.” *Id.* at 56.

71. Based on his analysis, Dr. Bagley opined that “Staff in the LCRO and leadership on the respective committees were not as responsive to legislators of color as they were to the majority, which was all-white save for a handful of Latino and East Asian members, and none were Black.” *Id.* at 57.

D. Demographic Trends in Georgia

72. Between 2010 and 2020 Georgia's population grew, driven almost entirely by an increase in the population of people of color. Duchin Rep. at 8

73. The share of Black and Hispanic residents in Georgia expanded from 39.75% to 42.75%; the white population decreased from 5,413,920 to 5,362,156 between the 2010 and 2020 census data releases; and the Georgia population is 31.73% Black. *Id.*

74. Despite the population growth of persons of color in Georgia, the newly enacted Congressional plan reduces the number of performing districts for Black and Latino-preferred candidates from 6/14 to 5/14, and the Senate plan has the same number of performing districts for Black and Latino-preferred candidates. Duchin Rep. at 10, 19.

E. The Map Drawing Process

75. Gina Wright, the director of the Legislative and Congressional Reapportionment Office (“LCRO”), was primarily responsible for the technical

aspects of drawing the legislative maps. Canter Decl. ¶ 16 (Deposition of Gina Wright (“Wright Dep.”) 8:24-9:02).

76. Rob Strangia is the Geographic Information Systems (“GIS”) specialist at the LCRO, who participated in the mapdrawing process. Canter Decl. ¶ 17 (Deposition of Robert Strangia (“Strangia Dep.” 19:14-20:24).

77. Mr. Strangia created a formula to estimate political data at the block level, but this data is not accurate at the block level. However, the legislature had access to racial data at the block level that is accurate. *Id.* at 97:17-103:23.

78. Director Wright testified that she did not use email to communicate about redistricting maps because she did not want to “create... a record.” Wright Dep. 19:16-20:03.

79. Dir. Wright kept drafts for all three of her maps private in her office until the drafting process was completed, and when Director Wright drew draft Congressional districts at the direction of legislators, racial data was projected onto the computer screens where the map lines were being drawn. Wright Dep. 39:17-40:1 (private in office); Wright Dep. 10:25-11:21; Wright Dep. 14:11-20 (Rep. Rich); Wright Dep. 27:17-32:4; Wright Dep. 115:25-116:16; Wright Dep. 36:14-24, Wright Dep. 63:18-21; Wright Dep. 145:11-22; Wright Dep. 149:25-150:9.

80. When Director Wright drew draft Congressional districts with legislators, she and the legislators could immediately see how line changes impacted the racial balance of districts. Wright Dep. 115:25-118:25 (data changed on screen when making changes to maps); 126:03-127:04 (same).

81. When Director Wright drew draft Senate districts at the direction of legislators, racial data was projected onto the computer screens where the map lines were being drawn. Wright Dep. 37:22-38:20; 40:3-41:19; 42:16-43:1; Wright Dep. 54:3-56:13; Wright Dep. 57:16-21; Wright Dep. 36:14-24, Wright Dep. 63:18-21; Wright Dep. 145:11-22; Wright Dep. 149:25-150:13.

82. When Director Wright drew draft Senate districts with legislators, she and the legislators could immediately see how line changes impacted the racial balance of districts. Wright Dep. 116:23-118:25; 126:03-127:04.

83. When Director Wright drew draft House districts at the direction of legislators, racial data was projected onto the computer screens where the map lines were being drawn. Wright Dep. 64:14-66; Wright Dep. 36:14-24, Wright Dep. 63:18-21; Wright Dep. 145:11-22; Wright Dep. 149:25-150:13.

84. When Director Wright drew draft House districts with legislators, she and the legislators could immediately see how line changes impacted the racial balance of districts. Wright Dep. 116:23-118:25; 126:03-127:04.

85. Dan O'Connor, a data analyst with the LCRO, testified during his deposition that a district in Georgia that was roughly 30% black would tend to elect Democrats and that the figure was consistent from 2014 to the present. Canter Decl. ¶ 18 (Deposition of Daniel O'Connor ("O'Connor Dep.") 30:9-33:18).

86. He also testified that if a legislator wanted to redraw such a district so that it was more likely to elect a Republican instead of a Democrat it would be necessary to lower the amount of BVAP in that district. *Id.* at 40:23-41:11.

87. He further testified that in order to lessen the BVAP in such a district one would need to either move BVAP out of the district and put it in another district or move WVAP into the district to dilute the amount of BVAP in the district. *Id.* at 41:12-24.

III. Material Facts in Support of Racial Gerrymandering Claims

A. Dr. Duchin's Methodology

88. Dr. Moon Duchin is a Professor of Mathematics and a Senior Fellow in the Jonathan M. Tisch College of Civic Life at Tufts University, where she is the Director of the MGGG Redistricting Lab, focused on geometric and computational aspects of redistricting. Duchin Rep. at 3.

89. Dr. Duchin has been accepted as an expert in vote dilution cases on the issue of *Gingles* preconditions by a three judge panels in Alabama, and on racial

gerrymandering issues by a three-judge panel in South Carolina. *See* Canter Decl. ¶ 19 (Deposition of Moon Duchin (“Duchin Dep.” Ex. 4 at 8)).

90. Dr. Duchin analyzed the Congressional, Senate, and House maps to determine whether there is evidence that race predominated over traditional redistricting principles in the drawing of certain districts. Duchin Rep. at 3-4. *See also* Duchin. Dep. 166:02-166:17.

91. To do so, Dr. Duchin primarily used two methods: First, Dr. Duchin examined core retention and population displacement from the benchmark plan to the enacted plan in order to detect evidence of “racially imbalanced transfer[s] of population in rebalancing the districts,” and whether those transfers “impact[ed] the districts’ effectiveness for electing Black and Latino candidates of choice.” Duchin Rep. at 67-71; Duchin. Dep. 166:02-166:08.

92. Dr. Duchin opined that racially imbalanced population transfers in and out of a district are evidence that race predominates over traditional redistricting principles. Duchin Dep. 180:18-180:23.

93. Second, Dr. Duchin looked at political subdivision splits—including precinct splits and county splits—to determine whether those splits provide evidence of “cracking” and “packing” that suggests race predominated over traditional

redistricting principles in the drawing of certain districts. Duchin Rep. § 10.2; Deposition of Moon Duchin (“Duchin Dep.”) 166:09-12.

94. Dr. Duchin opined that “[i]t is extremely frequent for precinct splits to show major racial disparity,” as well as that “racially distinctive precinct splits provide particularly strong evidence that race has predominated over other principles in the creation of the map.” Duchin Rep. at 5, 79.

95. Dr. Duchin also analyzed community testimony to review whether there were community of interest justifications for certain decisions that she determined were evidence of race-conscious decision-making. Duchin Rep. at 79-80; Duchin Dep. 166:13-166:17.

B. Core Retention and Population Displacement in the Congressional Plan

96. CD 6 “was nearly at ideal size before the redistricting, having 771,431 residents enumerated in the census —less than seven thousand off from the target size.” Duchin Rep. at 67.

97. CD 6 was nevertheless “subjected to major reconfiguration, with at least 40,000 people from the benchmark district reassigned to each of districts 4, 5, 7, and 11, while at least 40,000 different people were drawn in from each of districts 7, 9, and 11.” *Id.*

98. Larger proportions of Black and Hispanic population and neighborhoods were moved out of CD 6, and population from whiter suburban areas were moved into CD 6. *Id.* at 68.

99. The largest reassignment of population out of CD 6 went to CD 4, approximately 200,000 Georgians. *Id.*

100. The transfer of population from CD 6 to CD 4 was 37.5% Black or Latino. *Id.*

101. The largest transfer of population into CD 6 was from CD 7, approximately 200,000 Georgians. *Id.*

102. The population transferred into CD 6 from CD 7 was 16.1% Black or Latino. *Id.*

103. Under the benchmark plan, CD 6 performed for Black and Latino voters. *Id.*

104. The changes to CD 6 added whiter suburban/exurban/rural areas to the district. *Id.* at 68, Figure 31.

105. Dr. Duchin opined that CD 6 was cracked through “racially distinctive swaps of population” that diluted the voting power of Black and Latino voters. Duchin Dep. 173:1-173:25.

106. Dr. Duchin opined that the racially distinctive population swaps in CD 6 are evidence that race predominated over traditional redistricting principles in the drawing of CD 6. Duchin Dep. 182:15-182:19.

107. Dr. Duchin determined that core retention and population displacement in CD 14 were “distinctive in terms of density and racial composition.” *Id.*

108. CD 14 expanded into Cobb County to include two majority-Black cities: Powder Springs and Austell. *Id.* at 68, Figure 31 (included below).

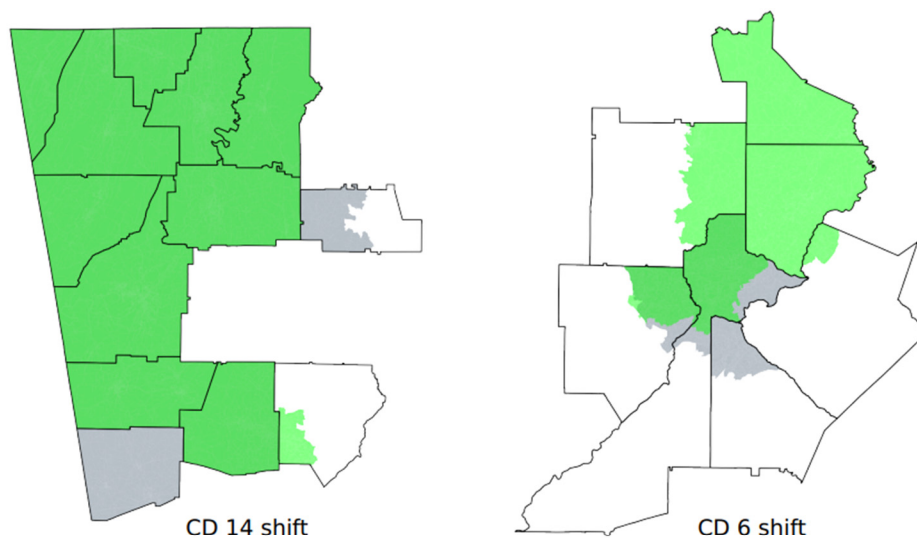


Figure 30: These before-and-after plots show benchmark configurations in gray, while new district placement is in light green. We can see that CD 14 made a new incursion into Cobb County while shedding rural Haralson and part of Pickens County. Meanwhile, CD 6 went sharply the other way, withdrawing from its metro Atlanta coverage and picking up rural counties to the north. Compare to Figure [31](#).

109. Dr. Duchin opined that “incursion of CD 14 into Cobb is emphatically not required by adherence to traditional redistricting principles.” *Id.* at 69.

110. The Duncan-Kennedy map—the first Congressional map released by the Senate Redistricting Committee—did not include Powder Springs and Austell in CD 14. *Id.* See also Duchin Dep. 177:14-178:15; Canter Decl. ¶ 20 (Deposition of Senator Kennedy (“Kennedy Dep.”) 117:25-118:01).

111. Dr. Duchin determined that “dense African-American neighborhoods” in Powder Springs and Austell were “submerged among more numerous, dissimilar communities [in] CD 14,” which could not be justified by compactness concerns. Duchin Rep. at 68; Duchin Dep. 175:11-20.

112. Dr. Duchin reviewed community testimony and determined that community of interest justifications could not account for including Powder Springs and Austell in CD 14. Duchin Rep. at 79-80.

113. Dr. Duchin determined that her core retention and population displacement analysis of CD 14 provided evidence that race predominated over traditional redistricting principles in the drawing of CD 14. Duchin Dep. 182:15-19.

C. Core Retention and Population Displacement in the Enacted Senate Plan.

114. Dr. Duchin analyzed core retention and population displacement in the enacted Senate Plan. Duchin Rep. at 69-70.

i. SD 48

115. Benchmark SD 48 was represented by Michelle Au, who was the candidate of choice of voters of color. *Id.*

116. Roughly two-thirds—over 130,000 people—of benchmark SD 48 was moved into enacted SD 7, of whom 37.8% were Black and Latino. *Id.*

117. The retained population of SD 48 has only a 17.8% BHVAP share. *Id.*

118. No territory moved into SD 48 has a BHVAP share over 23.5%. *Id.*

119. Dr. Duchin opined that the new SD 48 is highly ineffective for Black and Latino voters. *Id.*

120. Dr. Duchin opined that SD 48's racially imbalanced population displacement could not be explained by a desire to improve SD 48's compactness as compared to the benchmark SD 48. *Id.* at 70, Figure 32.

121. Dr. Duchin opined that her core retention and population displacement analysis of SD 48 is evidence that race predominated over traditional redistricting principles in the drawing of SD 48. Duchin Depo. 180:18-182:14; 189:02-189:24.

1. SD 17

122. Dr. Duchin analyzed the core retention and population displacement of the enacted SD 17, which had previously been an effective district for Black and Latino voters. Duchin Rep. at 70.

123. SD 17 retained only about half of its residents even though it was only mildly overpopulated. *Id.*

124. Approximately half of the outgoing population from SD 17 was Black and Latino. *Id.*

125. The incoming Black and Latino population to SD 17 was much lower than 50% of the incoming population. *Id.*

126. The new SD 17 is now ineffective for Black and Latino voters. *Id.*

127. Dr. Duchin determined that no district that received population from SD 17 thereby became effective for Black and Latino voters. *Id.*

128. Dr. Duchin opined that a desire to create a more compact SD 17 as compared to the benchmark SD 17 cannot explain the racially imbalanced population flows to and from SD 17. *Id.*, Figure 32. *See also* Wright Dep. 181:21-183:1 (describing Ex. 9); Wright Dep. Ex. 9.

129. Dr. Duchin determined that her core retention and population displacement analysis of SD 48 is evidence that race predominated over traditional redistricting principles in the drawing of SD 48. Duchin Dep. 180:18-182:14; 189:02-189:24.

2. SD 56

130. Dr. Duchin analyzed the core retention and population displacement of enacted SD 56, which had recently become competitive for Black and Latino voters. Duchin Rep. at 69.

131. Benchmark SD 56 was almost entirely placed into enacted SD 14. *Id.*

132. However, incumbent Republican John Albers was able to remain in the district. *Id.*

133. Dr. Duchin opined that the population flow from benchmark SD 56 to enacted SD 14 was racially imbalanced. *Id.*

134. Approximately 35.5% of the population moved from benchmark SD 56 to enacted SD 14 was BHVAP. *Id.*

135. Each territory moved into SD 56 contained under 19% BHVAP. *Id.*

136. The new SD 56 is not competitive for Black and Latino voters. *Id.*

137. Dr. Duchin determined that her core retention and population displacement analysis of SD 56 is evidence that race predominated over traditional redistricting principles in the drawing of SD 56. Duchin Dep. 180:18-182:14; 189:02-189:24.

D. Core Retention and Population Displacement in the Enacted House Plan.

1. HDs 35, 44, 48, 49, 52, 104, and 109

138. Dr. Duchin analyzed core retention and population displacement in the enacted House Plan. Duchin Rep. at 70-71.

139. Dr. Duchin identified seven house districts that had become competitive for Black and Latino voters because of demographic shifts over the last ten-years: HDs 35, 44, 48, 49, 52, 104, and 109. *Id.* at 70.

140. Dr. Duchin determined that five of these districts—HDs 44, 48, 49, 52, and 104—were “rebuilt to be ineffective for Black and Latino voters” because of “racially imbalanced population transfers.” *Id.* at 70.

141. Dr. Duchin produced a table that demonstrates the largest district-to-district reassignments for BHVAP for HDs 44, 48, 49, 52, and 104:

Benchmark HD	Outward	Inward
44	.425 (to HD 35)	.226 (from HD 20)
48	.464 (to HD 51)	.201 (from HD 49)
49	.227 (to HD 47)	.127 (from HD 48)
52	.436 (to HD 54)	.245 (from HD 79)
104	.715 (to HD 102)	.363 (from HD 103)

Table 40: This table records the BHVAP share of the largest district-to-district reassignment for the five "dismantled" House districts that were formerly swingy, now made ineffective.

Id. at 71, Table 40.

142. Dr. Duchin opined that racially imbalanced population flows from and into HDs 44, 48, 49, 52, and 104 could neither be “explained by traditional districting principles like compactness or respect for county lines” nor by “respect for municipal boundaries.” *Id.* at 71, Figure 33.

E. Political Subdivision Splits in the Congressional Plan.

143. Cobb County is split across four districts, with CD 13 and CD 14 receiving portions of Cobb that are over 60% Black and Latino by VAP, while CD 6 contains a part of Cobb that is about 18.5% BHVAP. *Id.* at 71.

144. Dr. Duchin determined this evidence is consistent with a “packing and cracking strategy.” *Id.*

145. CD 2 and CD 8 split Bibb County. *Id.* at 72.

146. Dr. Duchin determined that minutely race conscious decisions were “evident along the boundary of CD 2 and CD 8 in Bibb County,” as demonstrated by the figure below:

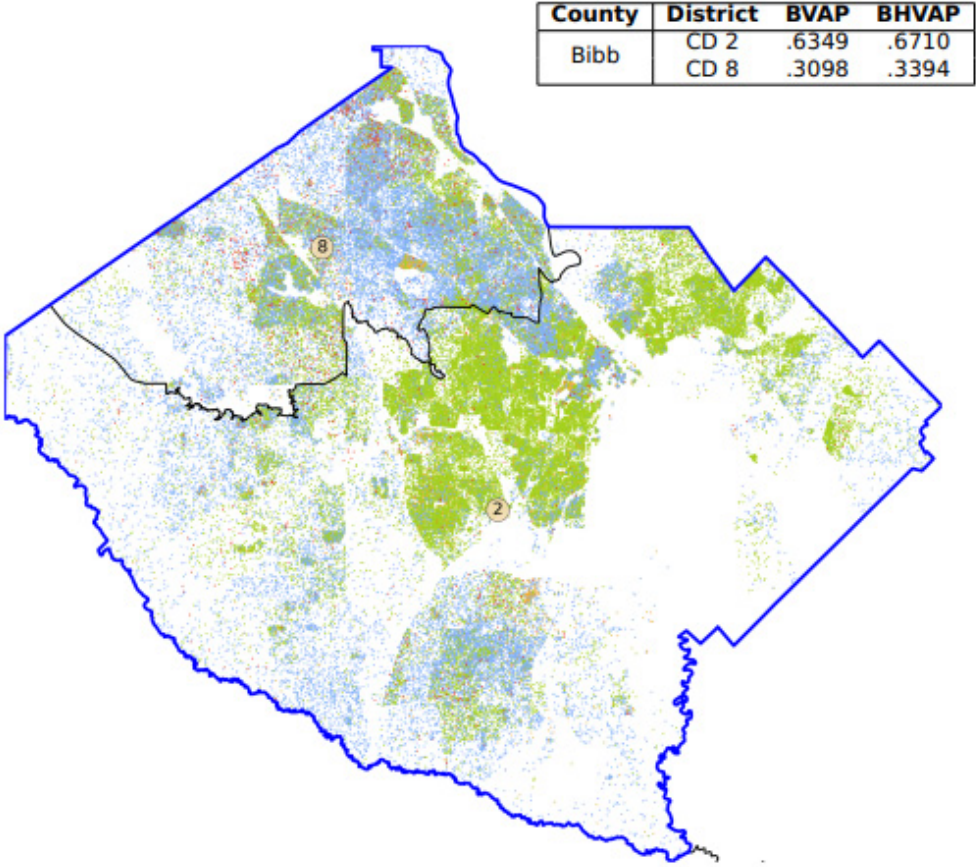


Figure 34: Minutely race-conscious decisions are evident along the boundary of CD 2 and CD 8 in Bibb County.

● Asian ● White ● Black ● Latino ● = 1 person

Id. at 72, Figure 34; *see also* Figure 2 at 9 (containing key to dot figure.)

147. Dr. Duchin analyzed all county splits involving CD 3, 6, 13, and 14.

Id. at 73; Table 41.

148. Dr. Duchin determined that all of the splits—with the exception of the Clayton County split-- are “consistent with an overall pattern of cracking in CD 3

and CD 6, packing in CD 13, and submerging a small and diverse urban community in CD 14,” as demonstrated below:

County	District	BVAP	BHVAP
Cherokee	CD 6	.0304	.0814
	CD 11	.0817	.1902
Clayton	CD 5	.7280	.8649
	CD 13	.7190	.8266
Cobb	CD 6	.1092	.1848
	CD 11	.2654	.3850
	CD 13	.4458	.6271
	CD 14	.4646	.5644
Douglas	CD 3	.2970	.3719
	CD 13	.5762	.6647
Fayette	CD 3	.2094	.2720
	CD 13	.5762	.6647
Fulton	CD 5	.4769	.5379
	CD 6	.1574	.2568
	CD 7	.1175	.1777
	CD 13	.8829	.9171
Gwinnett	CD 6	.1336	.2645
	CD 7	.3234	.5450
	CD 9	.2061	.3433
Henry	CD 3	.4678	.5259
	CD 10	.4414	.4948
	CD 13	.5710	.6324
Muscogee	CD 2	.5262	.5851
	CD 3	.1909	.2578

Table 41: All county splits involving CD 3, 6, 13, and 14. With the exception of the Clayton split, which is unremarkable in demographic terms, each of these is consistent with an overall pattern of cracking in CD 3 and CD 6, packing in CD 13, and submerging a small and diverse urban community in CD 14. See Appendix [C](#) for a complete list of county splits.

Id.

149. Dr. Duchin analyzed the Newton County split involving CD 4 and CD 10. *Id.* at 74.

150. Dr. Duchin determined that in “Newton County, CD 4 and CD 10 are divided by a line that is consistent with packing the former district and cracking the latter,” as demonstrated by the figure below:

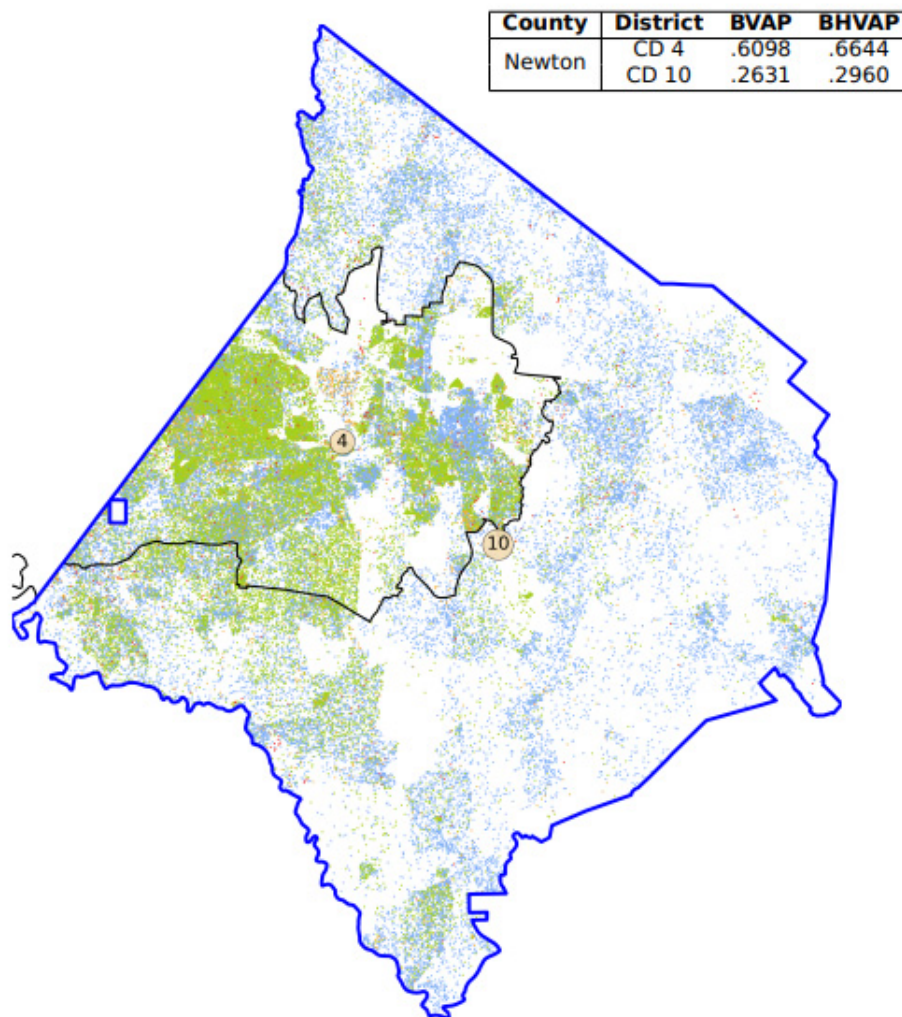


Figure 35: In Newton County, CD 4 and CD 10 are divided by a line that is consistent with packing the former district and cracking the latter.

Id. at 74, Figure 35.

151. Dr. Duchin also analyzed precinct splits in the Congressional map. *Id.* at 75.

152. Dr. Duchin opined that “for the purposes of investigating racial gerrymandering, the splits to state precincts can be especially revealing: these are the units at which cast votes are reported, so finer divisions are usually made in view of demographics but not voting behavior—that is, these highlight the predominance of race over even partisan concerns.” *Id*; see also Duchin Dep. 186: 17-23.

153. Dr. Duchin opined that specific precinct splits on the border of CD 6 and CD 11 “show significant racial disparity consistent with an effort to diminish the electoral effectiveness of CD 6,” as demonstrated by the table below:

State precinct	District	BVAP	BHVAP
MARIETTA 5A	CD 6	.1975	.4938
	CD 11	.4232	.5803
MARIETTA 6A	CD 6	.1391	.6607
	CD 11	.4738	.5464
SEWELL MILL 03	CD 6	.2225	.3042
	CD 11	.4064	.5548

Table 42: Three examples of split precincts on the CD 6 / CD 11 border that show significant racial disparity, consistent with an effort to diminish the electoral effectiveness of CD 6 for Black voters. (Note that CD 6 receives a higher share of BHVAP in Marietta 6A, but a far lower share of BVAP.)

Duchin Rep. at 75, Table 42.

154. Dr. Duchin opined that several precinct splits on the CD 4 and CD 10 border “stand out both in demographic and geographic terms,” which provide evidence of the “packing of CD 4 and cracking of CD 10,” as demonstrated by the table below:

State precinct	District	BVAP	BHVAP
ALCOVY	CD 4	.4010	.4499
	CD 10	.0512	.0620
CITY POND	CD 4	.5912	.6554
	CD 10	.3923	.4192
OXFORD	CD 4	.6444	.6932
	CD 10	.0929	.1213
DOWNS	CD 4	.6429	.7024
	CD 10	.4429	.4930

Table 43: Four examples of split precincts on the CD 4 / CD 10 border, all consistent with packing of CD 4 and cracking of CD 10.

Id. at 75, Table 43.

F. Political Subdivision Splits in the Senate Plan.

155. In the enacted Senate Plan, fourteen counties have at least a 20-point BHVAP disparity in BHVAP across county splits. *Id.* at 77.

156. Dr. Duchin analyzed the split of Bibb County involving SD 18, SD 25, and SD 26. *Id.*, Figure 37.

157. Dr. Duchin determined that the racial disparities in the split of Bibb County involving SD 18, SD 25, and SD 26 are evidence that SD 26 was packed, as demonstrated by the table below:

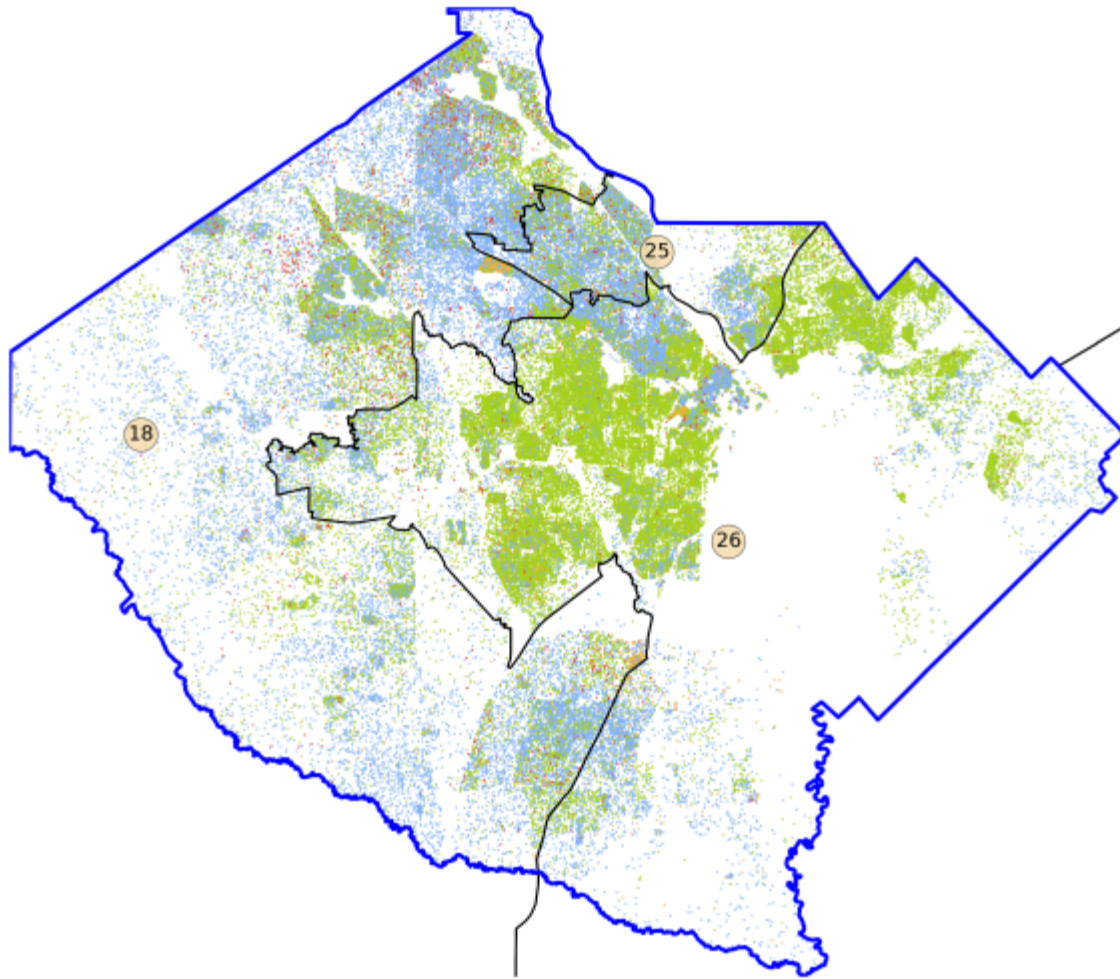


Figure 37: This figure shows the separation of Bibb County in a way that packs SD 26.

Id.

158. Dr. Duchin analyzed the split of Chatham County involving SDs 1, 2, and 4. *Id.* at 78, Figure 38

159. SD 2 is an effective district for Black and Latino Voters, and SDs 1 and 4 are not. *Id.*

160. Dr. Duchin determined that the “pieces of Chatham County look to be clearly racially sorted into Senate districts in a way that ensures that Black and Latino voters can only have effective influence in one of the constituent district,” as demonstrated below:

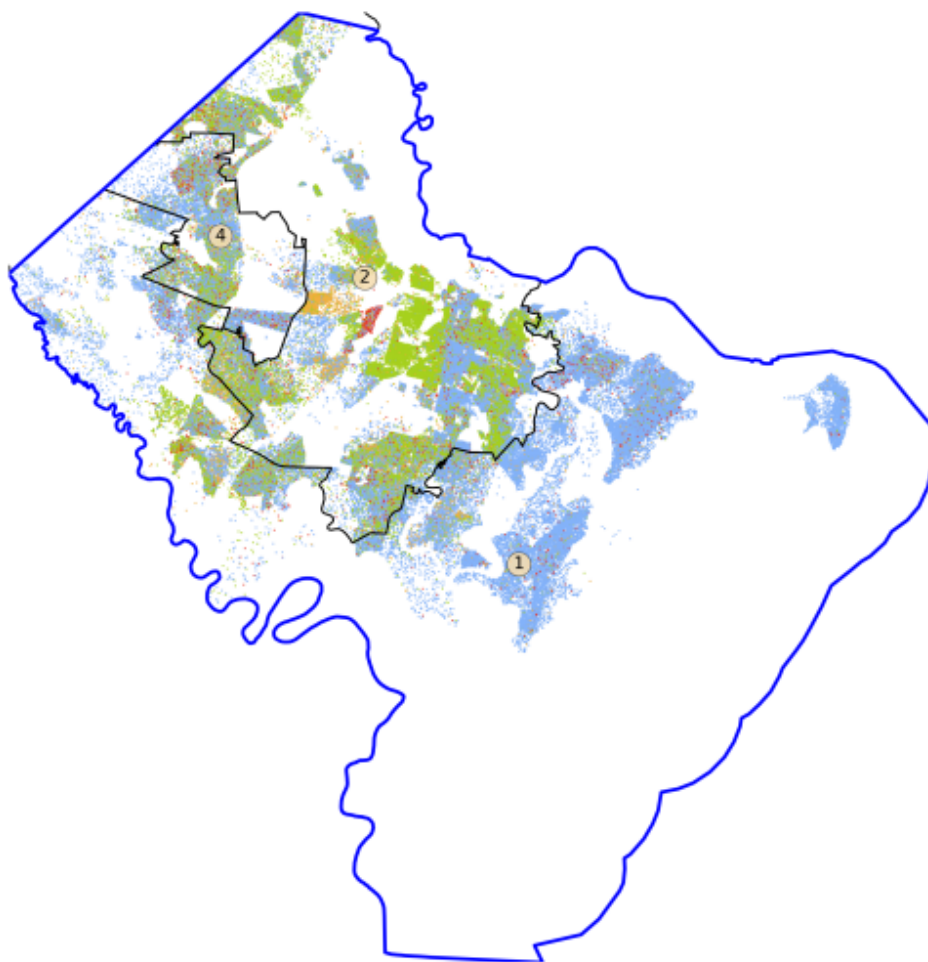


Figure 38: The pieces of Chatham County look to be clearly racially sorted into Senate districts in a way that ensures that Black and Latino voters can only have effective influence in one of the constituent districts. Indeed, SD 2 is an effective district, while SD 1 and SD 4 are not.

Id.

G. Dr. Duchin Concluded Race Was Used to Achieve Partisan Outcomes in the State’s Enacted Plans.

161. Dr. Duchin examined, among other things, the claims from certain Defendant witnesses that partisan politics, and not race, motivated the legislature in drawing certain congressional, senate, and house districts. Canter Decl. ¶ 21 (Duchin Rebuttal & Supplemental Report (“Duchin Rebuttal Rep.”) at 6-10).

162. Dr. Duchin ran algorithmic experiments to test the hypothesis that the legislature drew the congressional, senate, and house maps based not upon race but upon pursuing partisan advantage. *Id.* at 7-9.

163. To examine the effects of partisanship, Dr. Duchin “generated 100,000 statewide plans at each level of redistricting with an exploratory algorithm seeking larger numbers of Trump-favoring districts from the 2020 Presidential election.” *Id.* at 7.

164. These alternative partisan-advantage plans were drawn respectful of traditional districting principles, including compactness, population balance and county preservation, but did not include race data. *Id.*

165. Because Dr. Duchin did not input race data into her algorithm, she was able to explore “whether plans selected for partisanship—but with no race data—tend to have the same hallmarks of racial sorting that [she] found in the enacted plans.” *Id.*

166. Dr. Duchin then plotted the Black Voting Age Population in each of the districts in the enacted plans against the sets of partisan advantage districts created by her algorithms. *Id.* at 8.

167. Dr. Duchin opined that “if a plan were drawn by using minority racial population to secure partisan advantage in a state with roughly 50-50 partisan support,” we would expect to see “cracking” of the minority group in those districts in the middle range of partisan advantage. *Id.*

168. Dr. Duchin’s experiment did show that, in the middle range of partisan advantage districts in congressional, state Senate, and state House, the enacted plan’s Black VAP showed clear signs of “cracking,” i.e., “reduced Black population relative to the comparison plans. *Id.*

169. Dr. Duchin opined that her algorithmic experiment suggests that the legislature did not pursue a “race neutral advantage [in the congressional map], but rather a highly race-conscious pursuit of partisan advantage.” *Id.* at 8, Figure 5.

170. Dr. Duchin reached the same conclusion as to the Senate and House maps, finding that “The same signature of cracking is visible here as in the Congressional boxplot.” *Id.* at 9.

171. Dr. Duchin then drew random congressional, Senate, and House plans from the middle-range districts of her Trump-favoring collections and compared the BVAP in those districts to the middle-range districts of the enacted plan. *Id.* at 10.

172. Dr. Duchin concluded that the enacted plan had lower BVAP than all of the randomly selected congressional plans and virtually all of the randomly selected Senate and House plans. *Id.*

173. Dr. Duchin concluded that, based on her experiments, there were many thousands of examples with even greater partisan tilt than in the enacted plan that could have been drawn, but which did “not show the marked signs of racial sorting that are found in the enacted plan.” *Id.*

174. Dr. Duchin calculated that the probability of the enacted plan being as low in BVAP compared to the randomly-selected congressional plans was less than .00007. *Id.*

175. Dr. Duchin calculated that the probability of the enacted plan being as low in BVAP compared to the randomly-selected Senate plans was less than .00000004. *Id.*

176. Dr. Duchin calculated that the probability of the enacted plan being as low in BVAP compared to the randomly-selected House plans was less than .00000000006. *Id.*

177. Dr. Duchin also found indications corroborating the hypothesis that race was used to achieve partisan outcomes in the state’s enacted plans in the high numbers of split precincts, because vote history is not available at a sub-precinct level. *Id.*

IV. The First *Gingles* Precondition

A. Dr. Duchin’s Methodology

178. Dr. Duchin examined whether Plaintiffs could meet the first *Gingles* precondition. Duchin Dep. 28:07-30:02; Duchin Rep. at 3-4. To do so, Dr. Duchin analyzed whether it was possible to draw additional majority minority districts in Georgia’s congressional, senate, and house maps while respecting traditional redistricting principles. Duchin Rep. at 3-4.

179. In drawing her maps, Dr. Duchin first used a method called “computational redistricting,” which uses computer programs to generate various maps. Duchin Dep. 18:15-19:02. Dr. Duchin runs this “algorithmic exploration” to serve as a base for latter mapping in order to “get a sense of what’s possible in different parts of” Georgia. *Id.* 19:03-19:14.

180. After the “algorithmic exploration” generated base maps, Dr. Duchin hand drew maps in order to balance traditional redistricting principles and create

maps that are “remediable.” Duchin Dep. 65:06-77:12; 121:01-121:12; 123:13-123:15.

181. Dr. Duchin examined quantifiable and unquantifiable traditional redistricting principles. Duchin Dep. 28:12-28:20; 65:10-71:06; 79:13-79:17; 155:12-155:21; Duchin Rep. at 20-24, 79-80.

182. Dr. Duchin used the redistricting guidelines published by both chambers of the Georgia legislature to select which quantifiable and unquantifiable redistricting principles to analyze, as reflected by the figure below:

A. GENERAL PRINCIPLES FOR DRAFTING PLANS

1. Each congressional district should be drawn with a total population of plus or minus one person from the ideal district size.
2. Each legislative district of the General Assembly should be drawn to achieve a total population that is substantially equal as practicable, considering the principles listed below.
3. All plans adopted by the Committee will comply with Section 2 of the Voting Rights Act of 1965, as amended.
4. All plans adopted by the Committee will comply with the United States and Georgia Constitutions.
5. Districts shall be composed of contiguous geography. Districts that connect on a single point are not contiguous.
6. No multi-member districts shall be drawn on any legislative redistricting plan.
7. The Committee should consider:
 - a. The boundaries of counties and precincts;
 - b. Compactness; and
 - c. Communities of interest.
8. Efforts should be made to avoid the unnecessary pairing of incumbents.
9. The identifying of these criteria is not intended to limit the consideration of any other principles or factors that the Committee deems appropriate.

Duchin Rep. at 20.

183. Some of these principles are mandatory, such as compliance with the population balance for congressional and legislative districts, compliance with the Voting Rights Act, compliance with the U.S. and Georgia Constitutions, contiguity,

and ensuring that there are no multi-member districts. *Id.* Others are not mandatory, such as consideration of the boundaries of counties, compactness, communities of interest; the last is to make “efforts” to avoid the “unnecessary” pairing of incumbents. *Id.*

184. To determine communities of interest, Dr. Duchin analyzed a voluminous record of public testimony. Duchin Dep. 68:18-69:10. This community of interest testimony informed Dr. Duchin’s hand-drawing process. *Id.* 70:08-70:71:06; 79:09-79:16; 163:15-163:25.

185. This testimony included public input reflecting concerns that the ultimately-enacted CD 6 would be blending communities that have interests more common in rural communities—such as the Army Corp. of Engineers—with communities that have interests more common in suburban areas—such as public transportation. Duchin Rep. 79-80.

186. This testimony also included public input reflected concerns that the ultimately-enacted CD 14 would be blending communities that have interests more common in rural communities—such as manufacturing and agriculture—with communities that have interests more common in urban areas—such as housing. *Id.*

187. For her demonstrative Congressional plan, Dr. Duchin drew an alternative map covering the entire state. Duchin Dep. 21:01-21:13.

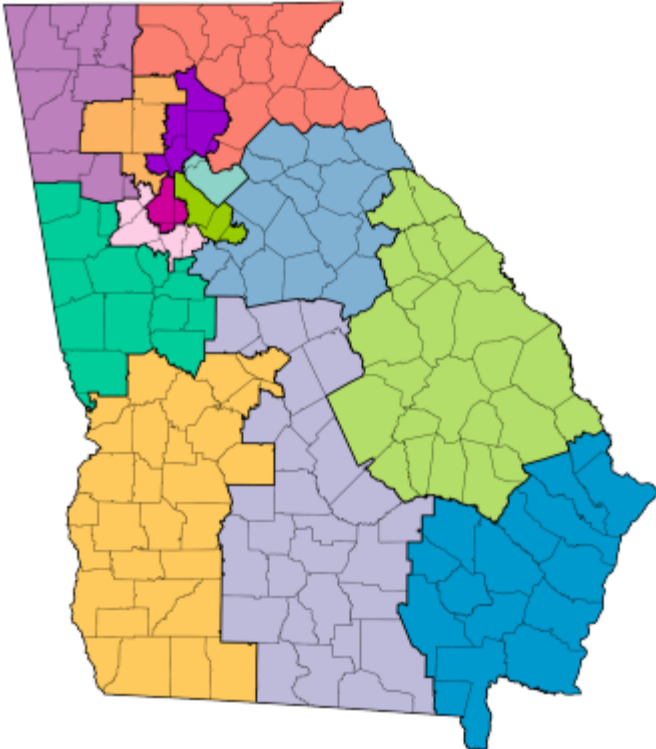
188. For her demonstrative senate and house plans, Dr. Duchin divided the Enacted Plan into modules. Under this modular approach, Dr. Duchin drew alternative maps in geographic areas covered by certain clusters of districts within certain modules in the enacted plan. Duchin Dep. 60:05-60:22; Duchin Rep. at 13, 14-15.

B. Numerosity

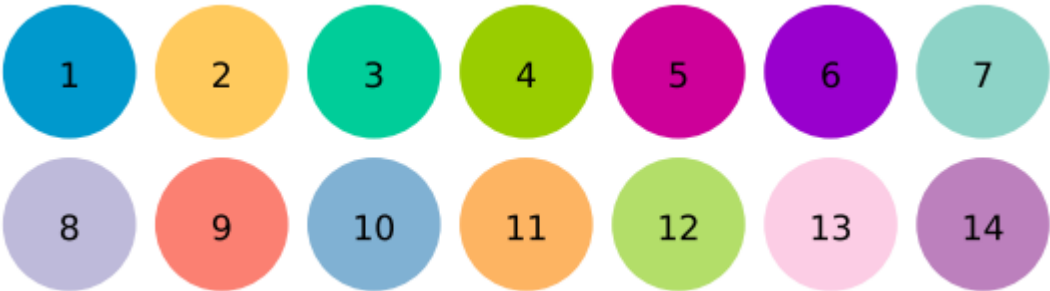
1. Dr. Duchin Drew Additional Majority Minority Congressional Districts.

189. The enacted congressional plan contained two majority BVAP districts (CD 4 and CD 13). Duchin Rep. at 25 (Table 11).

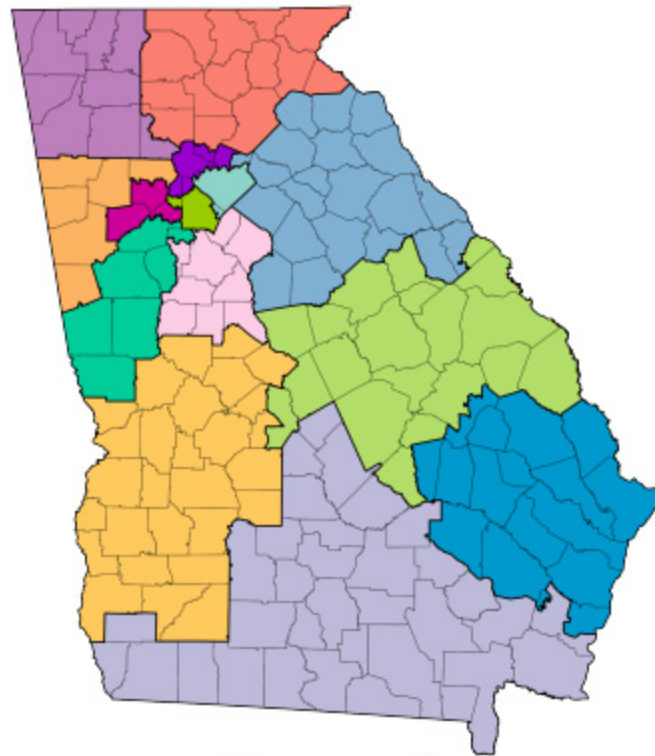
190. Three additional districts in the enacted congressional plan are majority Black and Hispanic voting age population (“BHVAP”) (CD 2, CD 5, and CD 7). *Id.* CD 7 is not majority Black and Hispanic Citizen Voting Age Population (“BHCVAP”). *Id. See also id.* at 11, Figure 3.



Enacted



191. Dr. Duchin provided one alternative congressional plan (“Alt 1 CD”) that created additional majority-minority districts when compared to the enacted plan. *Id. See also id.* at 11, Figure 3.



Congress Alt



192. Alt 1 CD creates four majority BVAP districts (Alt 1 CDs 3, 4, 5, 13).

Duchin Rep.at 25 (Table 11).

193. Alt 1 CD also creates two majority BHVAP districts, (Alt 1 CDs 2 and 7). *Id.*

194. Each of the majority BHVAP districts in Alt 1 CD are also majority BHCVAP districts. *Id.*

195. Alt 1 CD thus creates an additional majority-minority district: Alt 1CD 3, as demonstrated by the chart and figure below. *Id.*

CD	CD Enacted (Statewide)						CD Alt 1					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
1	28.2%	6.8%	35.0%	60.4%	0.285	0.456	30.3%	6.9%	37.2%	58.5%	0.312	0.633
2	49.3%	5.1%	54.4%	42.7%	0.267	0.458	47.7%	4.7%	52.4%	44.5%	0.315	0.494
3	23.3%	5.3%	28.6%	66.8%	0.275	0.461	51.2%	7.2%	58.4%	37.4%	0.278	0.411
4	54.5%	10.1%	64.6%	28.3%	0.246	0.307	50.6%	8.2%	58.8%	33.8%	0.295	0.481
5	49.6%	6.7%	56.3%	37.9%	0.322	0.512	50.1%	11.4%	61.5%	33.4%	0.216	0.424
6	9.9%	9.1%	19.0%	66.6%	0.198	0.424	13.7%	10.9%	24.6%	57.1%	0.232	0.346
7	29.8%	21.3%	51.1%	32.8%	0.386	0.496	34.3%	22.4%	56.7%	29.4%	0.351	0.518
8	30.0%	6.1%	36.1%	60.5%	0.210	0.338	27.3%	6.9%	34.2%	63.0%	0.227	0.377
9	10.4%	12.9%	23.3%	68.3%	0.253	0.380	4.6%	11.5%	16.1%	77.9%	0.403	0.512
10	22.6%	6.5%	29.1%	66.2%	0.284	0.558	17.6%	6.9%	24.5%	69.8%	0.335	0.576
11	17.9%	11.2%	29.1%	64.0%	0.207	0.480	17.6%	7.6%	25.2%	68.1%	0.283	0.364
12	36.7%	4.9%	41.6%	54.6%	0.278	0.502	39.2%	4.6%	43.8%	51.9%	0.181	0.489
13	66.7%	10.5%	77.2%	18.8%	0.157	0.380	52.0%	6.8%	58.8%	37.8%	0.276	0.510
14	14.3%	10.6%	24.9%	71.3%	0.373	0.426	7.6%	11.0%	18.6%	77.0%	0.514	0.484
Avg					0.267	0.441					0.301	0.473

196. Defendants' mapping expert, Dr. Morgan, testified he had no basis to dispute that it was possible to draw additional majority-minority districts in the Congressional plan. Canter Decl. ¶ 22 (Deposition of John Morgan ("Morgan Dep.") 20:22-23:25).

197. This chart, and others like it, reflect voting age population ("VAP") comparisons by district in the enacted plans and Dr. Duchin's created illustrative plans. Duchin Rep. at 25; *see also Id.* at 81.

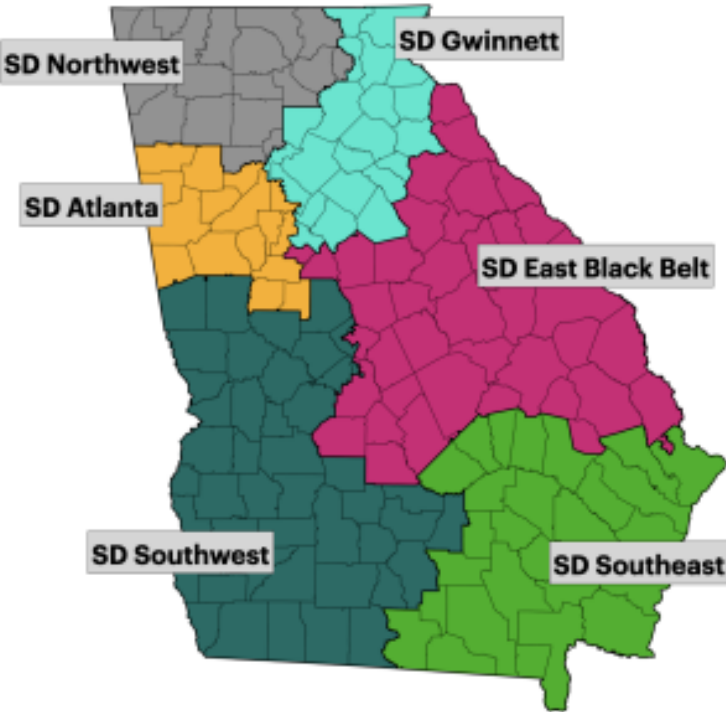
198. This chart, and others like it, compare the enacted and illustrative plans on a variety of metrics including Black voting age population ("BVAP"), Hispanic

voting age population (“HVAP”), White voting age population (“WVAP”), citizen voting age population (“CVAP”). Duchin Dep. 22:7-16; 46:6-7; Duchin Rep. at 7, 25, 81.

199. This chart, and others like it, compare the enacted and illustrative plans, using the two most common compactness metrics are the Polsby-Popper score and the Reock score. These are both contour-based scores that rely on the outline of the district on a map. Polsby-Popper is a ratio formed by comparing the district’s area to its perimeter via the formula $4 \pi A/P^2$. Reock considers how much of the smallest bounding circle is filled out by the district’s area. Duchin Rep. at 21.

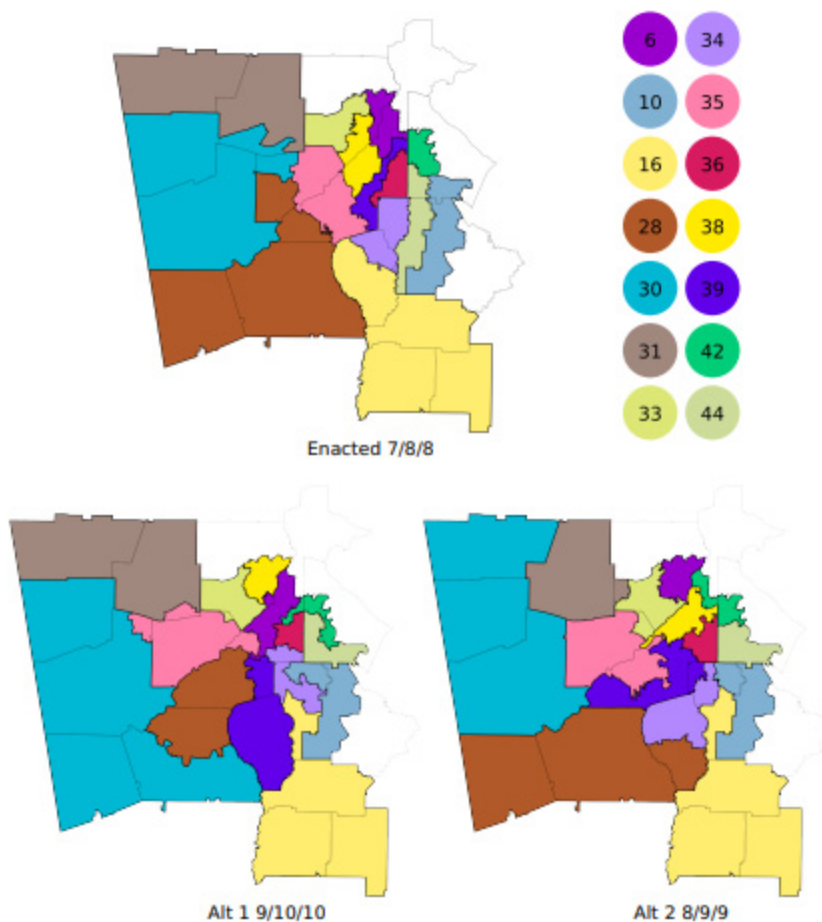
2. Dr. Duchin Drew Additional Majority Minority Senate Districts.

200. Dr. Duchin analyzed six clusters of senate districts: SD Northwest, SD Gwinnett, SD Atlanta, SD East Black Belt, SD Southwest, and SD Southeast.



Id. at 13 (Figure 5).

201. In the SD Atlanta region, Dr. Duchin provides two alternative maps (“SD Alt 1 Atlanta” and “SD Alt 2 Atlanta”) that create additional majority-minority districts. *Id.* at 26-27.



Id. at 26 (Figure 8).

202. Defendants’ expert, Dr. Morgan, testified he has no basis to dispute that Dr. Duchin was able to draw additional majority-minority senate districts. Morgan Dep. 24:02-24; *see also* Canter Decl. ¶ 23 (Expert Report of John Morgan (“Morgan Rep.” at 24, 27 (Charts 5 and 6)); Morgan Dep. 29:10-30:04; Morgan Dep. 79:08-12; Morgan Dep. 82:15-18.

203. The enacted SD Atlanta cluster contains 7 majority BVAP districts (SDs 10, 34, 35, 36, 38, 39, and 44). Duchin Rep. at 27 (Table 12 and Table 13).

204. The enacted SD Atlanta cluster contains an additional majority BHVAP district (SD 33). *Id.*

205. SD Alt 1 Atlanta contains 10 majority BVAP districts (SDs Alt 1 Atlanta 6, 10, 16, 28, 33, 34, 35, 36, 39, and 44). *Id.* (Table 12).

206. SD Alt 2 Atlanta contains 8 majority BVAP districts (SDs Alt 2 Atlanta 10, 33, 34, 35, 36, 38, 39, 44) and 1 majority BHVAP district (SD Alt 2 Atlanta 16). *Id.* (Table 13).

207. The tables below provide a comparison between the enacted senate plan and SD Alt 1 Atlanta and SD Alt 2 Atlanta:

SD	SD Atlanta Enacted						SD Alt 1					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
6	23.9%	8.2%	32.1%	57.8%	0.236	0.405	50.1%	6.1%	56.2%	39.8%	0.169	0.246
10	71.5%	5.2%	76.7%	19.6%	0.231	0.281	59.5%	11.0%	70.5%	23.4%	0.238	0.420
16	22.7%	5.0%	27.7%	66.9%	0.314	0.368	50.2%	6.2%	56.4%	40.9%	0.254	0.354
28	19.5%	6.4%	25.9%	69.4%	0.246	0.445	50.6%	6.8%	57.4%	39.3%	0.335	0.489
30	20.9%	6.1%	27.0%	69.4%	0.407	0.597	14.3%	5.1%	19.4%	76.9%	0.286	0.361
31	20.7%	7.4%	28.1%	68.3%	0.379	0.366	19.7%	7.2%	26.9%	69.4%	0.470	0.395
33	43.0%	22.9%	65.9%	30.2%	0.215	0.401	50.4%	18.1%	68.5%	27.9%	0.381	0.528
34	69.5%	12.7%	82.2%	13.4%	0.335	0.451	72.2%	11.6%	83.8%	11.5%	0.163	0.326
35	71.9%	7.5%	79.4%	18.8%	0.263	0.472	50.9%	8.0%	58.9%	38.2%	0.347	0.400
36	51.3%	7.1%	58.4%	36.2%	0.305	0.321	50.0%	5.7%	55.7%	38.8%	0.339	0.452
38	65.3%	8.4%	73.7%	21.9%	0.208	0.361	27.9%	15.4%	43.3%	46.1%	0.271	0.487
39	60.7%	5.6%	66.3%	27.9%	0.128	0.166	51.2%	5.4%	56.6%	38.6%	0.277	0.357
42	30.8%	8.6%	39.4%	51.4%	0.321	0.479	35.8%	9.6%	45.4%	43.5%	0.112	0.289
44	71.3%	8.6%	79.9%	15.3%	0.185	0.180	61.6%	3.6%	65.2%	31.0%	0.237	0.356
Avg					0.270	0.378					0.277	0.390

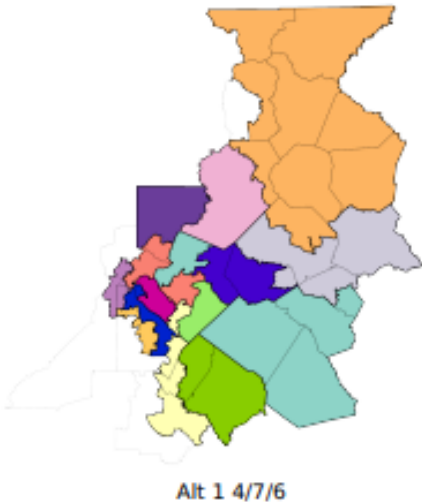
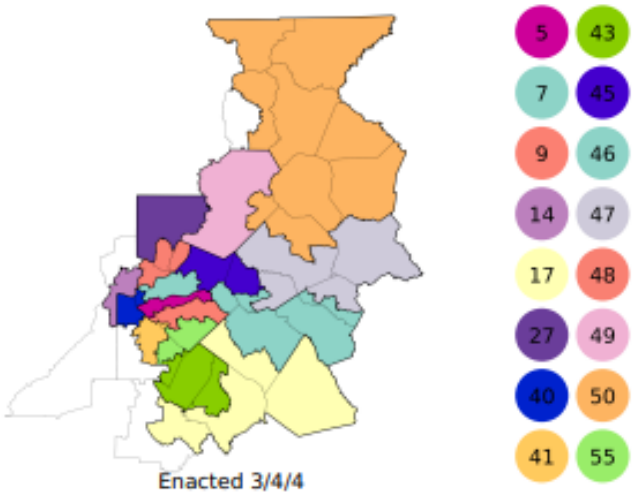
Table 12: SD Atlanta Alt 1 splits 8 counties within the cluster compared to 7 in the enacted plan and has a better discrete compactness score, with 2017 cut edges rather than 2197, to go with comparable Polsby-Popper and superior Reock compactness.

SD	SD Atlanta Enacted						SD Alt 2					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
6	23.9%	8.2%	32.1%	57.8%	0.236	0.405	28.0%	14.9%	42.9%	46.7%	0.256	0.477
10	71.5%	5.2%	76.7%	19.6%	0.231	0.281	59.7%	9.8%	69.5%	23.3%	0.307	0.416
16	22.7%	5.0%	27.7%	66.9%	0.314	0.368	48.4%	6.1%	54.5%	42.4%	0.258	0.366
28	19.5%	6.4%	25.9%	69.4%	0.246	0.445	15.8%	6.1%	21.9%	72.8%	0.347	0.371
30	20.9%	6.1%	27.0%	69.4%	0.407	0.597	15.7%	6.6%	22.3%	74.2%	0.473	0.508
31	20.7%	7.4%	28.1%	68.3%	0.379	0.366	25.9%	6.7%	32.6%	63.6%	0.591	0.636
33	43.0%	22.9%	65.9%	30.2%	0.215	0.401	50.6%	18.2%	68.8%	27.4%	0.224	0.463
34	69.5%	12.7%	82.2%	13.4%	0.335	0.451	54.4%	11.9%	66.3%	27.9%	0.246	0.381
35	71.9%	7.5%	79.4%	18.8%	0.263	0.472	60.9%	7.5%	68.4%	29.3%	0.206	0.490
36	51.3%	7.1%	58.4%	36.2%	0.305	0.321	54.0%	6.8%	60.8%	33.6%	0.263	0.466
38	65.3%	8.4%	73.7%	21.9%	0.208	0.361	51.0%	5.6%	56.6%	37.6%	0.154	0.260
39	60.7%	5.6%	66.3%	27.9%	0.128	0.166	86.5%	5.5%	92.0%	7.0%	0.118	0.271
42	30.8%	8.6%	39.4%	51.4%	0.321	0.479	17.0%	10.7%	27.7%	61.4%	0.144	0.282
44	71.3%	8.6%	79.9%	15.3%	0.185	0.180	76.3%	3.2%	79.5%	18.7%	0.374	0.456
Avg					0.270	0.378					0.283	0.417

Table 13: SD Atlanta Alt 2 splits 6 counties within the cluster and has just 1985 cut edges, better than the enacted plan's 7 and 2197, while also improving on both contour-based compactness scores.

Id. (Table 12 and Table 13).

208. Dr. Duchin provided an alternative map in Gwinnett (“SD Alt 1 Gwinnett”) that created additional majority-minority districts:



Id. at 28 (Figure 9).

209. Defendants’ expert, Dr. Morgan, testified he has no basis to dispute that Dr. Duchin was able to draw additional majority-minority senate districts. Morgan Dep. 24:02-20; *see also* Morgan Rep. at 24, 27 (Charts 5 and 6); Morgan Dep. 29:10-30:4; Morgan Dep. 79:08-12; Morgan Dep. 82:15-18.

210. The enacted SD Gwinnett cluster contains 3 majority BVAP districts (SDs 41, 43, and 55) and 1 additional majority BHVAP district (SD 5). Morgan Rep. at 29 (Table 14).

211. SD Alt 1 Gwinnett creates 5 majority BVAP districts (SDs Alt 1 Gwinnett 17, 40, 41, 43, and 55), and 2 majority BHVAP districts (SDs Alt 1 Gwinnett 5 and 9). *Id.*

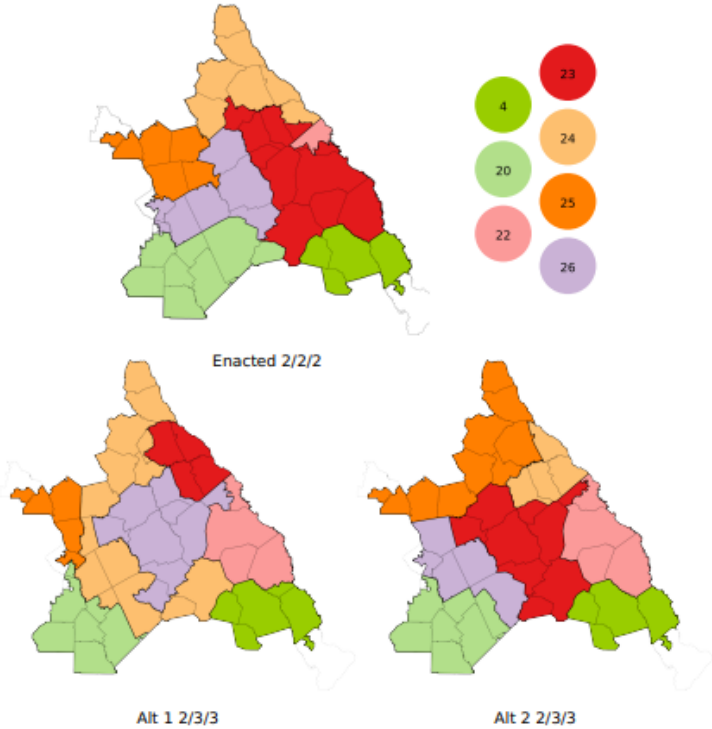
212. The table below compares the enacted SD Gwinnett cluster to SD Alt 1 Gwinnett:

SD	SD Gwinnett Enacted						SD Alt 1					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
5	29.9%	41.7%	71.6%	15.7%	0.207	0.166	20.3%	34.6%	54.9%	28.0%	0.285	0.384
7	21.4%	16.6%	38.0%	37.8%	0.339	0.344	17.1%	14.3%	31.4%	45.5%	0.278	0.401
9	29.5%	18.8%	48.3%	35.8%	0.213	0.233	29.3%	27.0%	56.3%	26.2%	0.234	0.498
14	19.0%	12.1%	31.1%	57.1%	0.242	0.273	18.1%	11.4%	29.5%	57.6%	0.208	0.296
17	32.0%	5.1%	37.1%	59.4%	0.168	0.342	51.1%	6.6%	57.7%	35.9%	0.113	0.188
27	5.0%	10.2%	15.2%	71.5%	0.456	0.499	4.7%	10.2%	14.9%	70.8%	0.500	0.497
40	19.2%	21.6%	40.8%	46.3%	0.345	0.508	50.1%	17.7%	67.8%	25.1%	0.130	0.208
41	62.6%	6.7%	69.3%	21.4%	0.302	0.509	57.3%	10.0%	67.3%	23.3%	0.149	0.279
43	64.3%	6.9%	71.2%	26.5%	0.346	0.635	52.0%	7.0%	59.0%	38.3%	0.420	0.537
45	18.6%	13.1%	31.7%	55.5%	0.305	0.350	19.8%	12.1%	31.9%	58.8%	0.226	0.380
46	16.9%	7.0%	23.9%	69.9%	0.207	0.365	16.5%	5.0%	21.5%	73.4%	0.416	0.514
47	17.4%	9.6%	27.0%	67.5%	0.187	0.353	16.7%	8.7%	25.4%	68.5%	0.176	0.326
48	9.5%	7.0%	16.5%	52.2%	0.342	0.348	10.1%	6.4%	16.5%	54.8%	0.266	0.387
49	8.0%	21.9%	29.9%	65.6%	0.341	0.461	8.1%	24.6%	32.7%	62.8%	0.382	0.573
50	5.6%	8.8%	14.4%	81.5%	0.228	0.450	5.4%	6.1%	11.5%	84.3%	0.232	0.462
55	66.0%	8.7%	74.7%	20.6%	0.271	0.333	50.0%	13.9%	63.9%	30.0%	0.419	0.451
Avg					0.281	0.386					0.277	0.399

Id.

213. Dr. Duchin provided two alternative maps for the SD East Black Belt cluster (“SD Alt 1 East Black Belt” and “SD Alt 2 East Black Belt”) that create additional majority-minority districts.

7.2.3 SD East Black Belt



Id. at 30 (Figure 10).

214. Defendants’ expert, Dr. Morgan, testified he has no basis to dispute that Dr. Duchin was able to draw additional majority-minority senate districts. Morgan Dep. 24:02-20; *see also* Morgan Rep. at 24, 27 (Charts 5 and 6); Morgan Dep. 29:10-30:04; Morgan Dep. 79:08-12; Morgan Dep. 82:15-18.

215. The enacted SD East Black Belt region contains two majority BVAP districts (SDs 22 and 26). *See* Duchin Rep. at 31 (Table 15 and Table 6).

216. SD Alt 1 East Black Belt contains three majority BVAP districts (SDs Alt 1 East Black Belt 22, 25, and 26). *Id.* (Table 15).

217. SD Alt 2 East Black Belt contains two majority BVAP districts (SDs Alt 2 East Black Belt 22 and 26) and one majority BHVAP district (SD Alt 2 East Black Belt 23). *Id.* (Table 16).

218. The table below provides a comparison between the enacted SD East Black Belt cluster and SD Alt 1 East Black Belt and SD Alt 2 East Black Belt:

SD	SD East Black Belt Enacted						SD Alt 1					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
4	23.4%	5.5%	28.9%	66.8%	0.265	0.471	23.5%	5.5%	29.0%	66.7%	0.284	0.495
20	31.3%	3.5%	34.8%	61.7%	0.358	0.404	34.4%	5.1%	39.5%	56.5%	0.231	0.498
22	56.5%	5.3%	61.8%	34.4%	0.288	0.404	50.5%	3.8%	54.3%	42.6%	0.241	0.455
23	35.5%	4.5%	40.0%	56.9%	0.164	0.365	23.0%	5.6%	28.6%	64.6%	0.466	0.497
24	19.9%	4.4%	24.3%	69.8%	0.213	0.366	25.0%	3.5%	28.5%	69.1%	0.083	0.229
25	33.5%	3.7%	37.2%	59.9%	0.241	0.386	50.0%	4.0%	54.0%	43.4%	0.174	0.344
26	57.0%	4.2%	61.2%	36.6%	0.203	0.469	50.1%	3.7%	53.8%	43.4%	0.209	0.472
Avg					0.247	0.409					0.241	0.427

Table 15: SD East Black Belt Alt 1 has more cut edges than the state (1301 vs. 1021 from the enacted plan), paired with a comparable Polsby-Popper and a superior Reock score. This alternative plan splits seven counties while the state splits four within the cluster.

SD	SD East Black Belt Enacted						SD Alt 2					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
4	23.4%	5.5%	28.9%	66.8%	0.265	0.471	23.4%	5.5%	28.9%	66.8%	0.265	0.471
20	31.3%	3.5%	34.8%	61.7%	0.358	0.404	32.5%	4.9%	37.4%	58.7%	0.304	0.586
22	56.5%	5.3%	61.8%	34.4%	0.288	0.404	50.4%	3.5%	53.9%	42.9%	0.264	0.432
23	35.5%	4.5%	40.0%	56.9%	0.164	0.365	47.4%	4.1%	51.5%	45.8%	0.231	0.441
24	19.9%	4.4%	24.3%	69.8%	0.213	0.366	23.1%	5.6%	28.7%	64.5%	0.327	0.458
25	33.5%	3.7%	37.2%	59.9%	0.241	0.386	28.2%	4.5%	32.7%	64.3%	0.176	0.311
26	57.0%	4.2%	61.2%	36.6%	0.203	0.469	51.2%	3.1%	54.3%	43.5%	0.205	0.331
Avg					0.247	0.409					0.253	0.433

Table 16: SD East Black Belt Alt 2 has just two county splits, compared to four in the state's plan. With just 1008 cut edges, it also executes a clean sweep of compactness scores relative to the enacted plan.

Id.

3. Dr. Duchin Drew Additional Majority Minority House Districts.

219. Dr. Duchin analyzed seven House clusters: HD Atlanta, HD Cobb, HD DeKalb, HD Gwinnett, HD Southwest, HD East Black Belt, HD Southeast. *Id.* at 14-15.

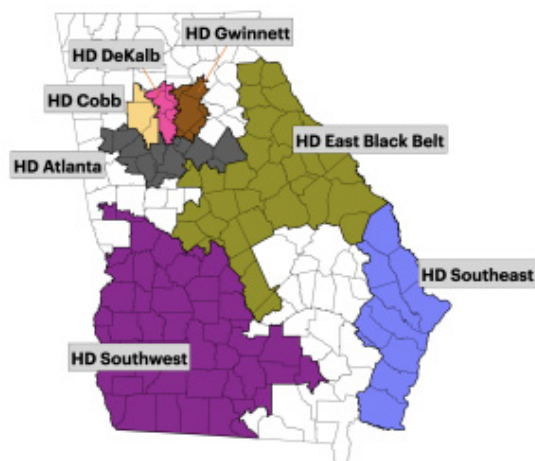
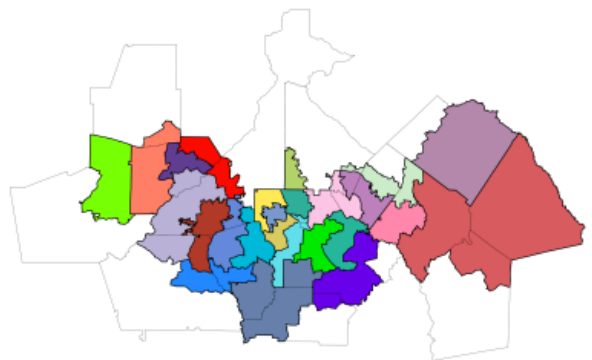


Figure 7: Seven "modular" House clusters made up of groups of enacted districts.

Id. at 15 (Figure 7).

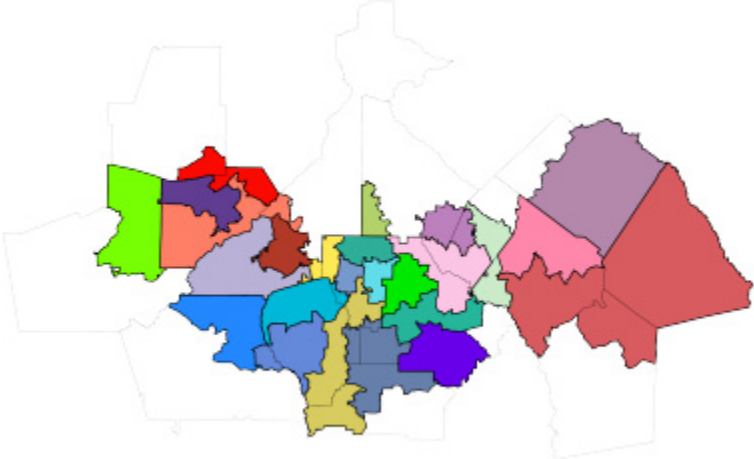
220. Dr. Duchin provided two alternative maps (“HD Alt 1 Atlanta” and “HD Alt 2 Atlanta”) for the HD Atlanta cluster that created additional majority-minority districts:

7.3.1 HD Atlanta

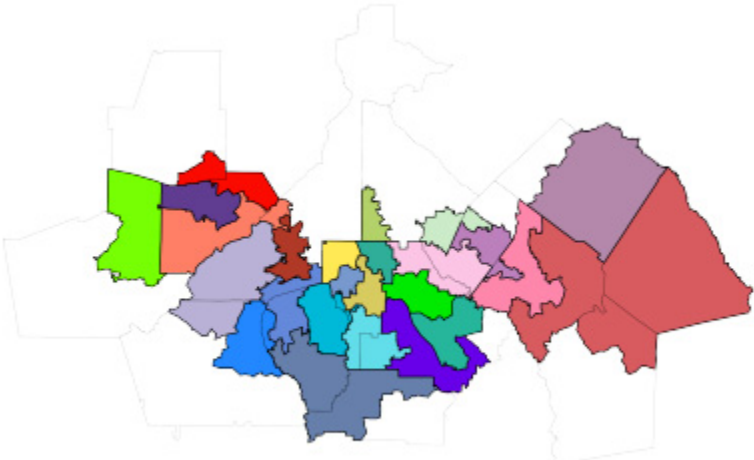


Enacted 18/18/18





Alt 1 20/20/20



Alt 2 19/20/20

Id. at 32-33 (Figures 11 and 12).

221. Defendants’ expert Dr. Morgan testified he has no basis to dispute that it is possible to draw additional majority-minority house districts. Morgan Dep. 24:22-24:09; *see also* Morgan Rep., 18, 21 (Charts 2 and 3); Morgan Dep. 29:10-30:04; Morgan Dep. 79:4-12; Morgan Dep. 82:15-18.

222. The enacted HD Atlanta cluster contains 18 majority BVAP districts (HDs 61, 65, 66, 67, 68, 69, 75, 76, 77, 78, 79, 90, 91, 92, 93, 113, 115, and 116). *See* Duchin Rep. at 34 (Table 17 and Table 18).

223. HD Alt 1 Atlanta contains 20 majority BVAP districts (HDs Alt 1 Atlanta 61, 64, 65, 66, 67, 69, 74, 75, 76, 77, 78, 79, 90, 91, 92, 93, 113, 115, 116, 117). *Id.* (Table 17).

224. HD Alt 2 Atlanta contains 19 majority BVAP districts (HDs Alt 2 Atlanta 64, 65, 66, 67, 68, 69, 75, 76, 77, 78, 79, 90, 91, 92, 93, 113, 115, 116, 117), and one majority BHVAP district (HD Alt 2 Atlanta 61). *Id.* (Table 18).

225. The tables below provide comparisons between HD Atlanta enacted and HD Atlanta Alt 1 and HD Atlanta Alt 2.

HD	HD Atlanta Enacted						HD Alt 1					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
61	74.3%	7.6%	81.9%	16.8%	0.198	0.247	50.1%	10.0%	60.1%	37.1%	0.229	0.265
64	30.7%	7.4%	38.1%	57.8%	0.361	0.365	50.9%	6.5%	57.4%	40.0%	0.132	0.263
65	62.0%	4.5%	66.5%	31.5%	0.172	0.454	81.7%	4.7%	86.4%	12.5%	0.222	0.350
66	53.4%	9.5%	62.9%	33.9%	0.246	0.356	51.0%	9.0%	60.0%	36.2%	0.256	0.386
67	58.9%	7.8%	66.7%	30.9%	0.122	0.357	89.9%	5.4%	95.3%	4.4%	0.195	0.515
68	55.7%	6.3%	62.0%	33.9%	0.172	0.318	13.7%	6.6%	20.3%	71.5%	0.310	0.518
69	63.6%	5.4%	69.0%	26.9%	0.247	0.403	51.9%	8.8%	60.7%	34.0%	0.339	0.409
71	19.9%	6.2%	26.1%	69.8%	0.352	0.441	19.9%	6.2%	26.1%	69.8%	0.350	0.441
73	12.1%	7.0%	19.1%	72.6%	0.198	0.278	11.8%	6.4%	18.2%	75.9%	0.335	0.417
74	25.5%	5.6%	31.1%	64.4%	0.247	0.496	50.8%	6.9%	57.7%	39.7%	0.205	0.461
75	74.4%	11.3%	85.7%	11.3%	0.285	0.420	54.2%	7.7%	61.9%	34.1%	0.133	0.230
76	67.2%	13.2%	80.4%	10.5%	0.509	0.524	61.6%	20.0%	81.6%	11.2%	0.460	0.409
77	76.1%	12.2%	88.3%	7.6%	0.211	0.396	89.6%	5.0%	94.6%	3.5%	0.211	0.292
78	71.6%	8.9%	80.5%	15.0%	0.194	0.210	64.2%	11.3%	75.5%	15.4%	0.256	0.414
79	71.6%	16.0%	87.6%	7.1%	0.209	0.498	73.3%	14.6%	87.9%	8.0%	0.370	0.444
90	58.5%	4.3%	62.8%	34.0%	0.286	0.359	58.5%	4.3%	62.8%	34.0%	0.286	0.359
91	70.0%	5.9%	75.9%	22.0%	0.202	0.447	50.3%	5.2%	55.5%	40.7%	0.245	0.384
92	68.8%	4.7%	73.5%	24.1%	0.198	0.361	87.6%	3.5%	91.1%	8.3%	0.260	0.543
93	65.4%	9.6%	75.0%	22.9%	0.112	0.260	62.1%	10.4%	72.5%	25.4%	0.160	0.232
112	19.2%	3.3%	22.5%	73.7%	0.522	0.619	19.2%	3.3%	22.5%	73.7%	0.522	0.619
113	59.5%	6.7%	66.2%	31.8%	0.318	0.501	51.0%	5.1%	56.1%	41.2%	0.338	0.425
114	24.7%	3.7%	28.4%	68.8%	0.283	0.502	32.8%	4.4%	37.2%	60.3%	0.267	0.438
115	52.1%	7.0%	59.1%	36.9%	0.226	0.436	50.2%	6.0%	56.2%	38.6%	0.193	0.282
116	58.1%	7.3%	65.4%	27.2%	0.280	0.407	54.8%	8.0%	62.8%	29.6%	0.333	0.478
117	36.6%	5.4%	42.0%	54.5%	0.275	0.408	51.0%	7.2%	58.2%	39.0%	0.409	0.511
Avg					0.257	0.402					0.281	0.403

Table 17: In HD Atlanta, the enacted plan has 10 county splits and 2221 cut edges. Alt 1 maintains 10 county splits and improves to 1988 cut edges.

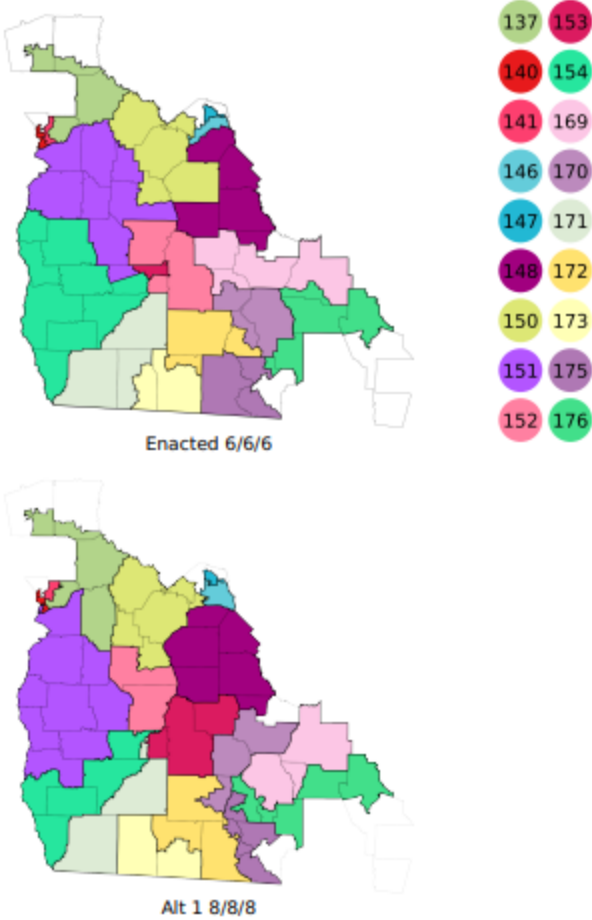
HD	HD Atlanta Enacted						HD Alt 2					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
61	74.3%	7.6%	81.9%	16.8%	0.198	0.247	47.4%	10.1%	57.5%	39.6%	0.290	0.276
64	30.7%	7.4%	38.1%	57.8%	0.361	0.365	50.5%	6.8%	57.3%	40.0%	0.201	0.271
65	62.0%	4.5%	66.5%	31.5%	0.172	0.454	67.6%	4.1%	71.7%	26.6%	0.302	0.458
66	53.4%	9.5%	62.9%	33.9%	0.246	0.356	51.2%	9.1%	60.3%	36.0%	0.336	0.407
67	58.9%	7.8%	66.7%	30.9%	0.122	0.357	90.4%	5.3%	95.7%	4.0%	0.131	0.428
68	55.7%	6.3%	62.0%	33.9%	0.172	0.318	58.2%	6.8%	65.0%	31.0%	0.168	0.329
69	63.6%	5.4%	69.0%	26.9%	0.247	0.403	54.6%	6.3%	60.9%	34.4%	0.310	0.538
71	19.9%	6.2%	26.1%	69.8%	0.352	0.441	19.9%	6.2%	26.1%	69.8%	0.352	0.441
73	12.1%	7.0%	19.1%	72.6%	0.198	0.278	11.9%	7.0%	18.9%	73.6%	0.373	0.498
74	25.5%	5.6%	31.1%	64.4%	0.247	0.496	12.8%	5.7%	18.5%	75.5%	0.192	0.320
75	74.4%	11.3%	85.7%	11.3%	0.285	0.420	61.4%	12.0%	73.4%	17.6%	0.225	0.404
76	67.2%	13.2%	80.4%	10.5%	0.509	0.524	70.4%	13.2%	83.6%	9.6%	0.352	0.416
77	76.1%	12.2%	88.3%	7.6%	0.211	0.396	77.0%	12.6%	89.6%	7.0%	0.491	0.510
78	71.6%	8.9%	80.5%	15.0%	0.194	0.210	68.6%	8.4%	77.0%	21.0%	0.325	0.540
79	71.6%	16.0%	87.6%	7.1%	0.209	0.498	73.1%	15.5%	88.6%	7.5%	0.357	0.549
90	58.5%	4.3%	62.8%	34.0%	0.286	0.359	58.5%	4.3%	62.8%	34.0%	0.286	0.359
91	70.0%	5.9%	75.9%	22.0%	0.202	0.447	53.0%	5.2%	58.2%	38.4%	0.231	0.369
92	68.8%	4.7%	73.5%	24.1%	0.198	0.361	69.6%	6.9%	76.5%	21.3%	0.174	0.330
93	65.4%	9.6%	75.0%	22.9%	0.112	0.260	85.5%	7.2%	92.7%	7.0%	0.201	0.329
112	19.2%	3.3%	22.5%	73.7%	0.522	0.619	19.2%	3.3%	22.5%	73.7%	0.522	0.619
113	59.5%	6.7%	66.2%	31.8%	0.318	0.501	53.9%	5.6%	59.5%	37.9%	0.153	0.355
114	24.7%	3.7%	28.4%	68.8%	0.283	0.502	24.9%	3.8%	28.7%	68.6%	0.235	0.487
115	52.1%	7.0%	59.1%	36.9%	0.226	0.436	50.3%	6.9%	57.2%	39.8%	0.304	0.475
116	58.1%	7.3%	65.4%	27.2%	0.280	0.407	53.2%	7.9%	61.1%	31.0%	0.382	0.452
117	36.6%	5.4%	42.0%	54.5%	0.275	0.408	50.1%	6.5%	56.6%	38.4%	0.155	0.323
Avg					0.257	0.402					0.282	0.419

Table 18: With 9 county splits and 1995 cut edges, Alt 2 dominates the enacted plan.

Id.

226. Dr. Duchin drew an alternative map for HD Southwest (HD Alt 1 Southwest) that created additional majority-minority districts:

7.3.2 HD Southwest



Id. at 35 (Figure 13).

227. Defendants’ expert Dr. Morgan testified he has no basis to dispute that it is possible to draw additional majority-minority house districts. Morgan Dep. 24:22-24:09; *see also* Morgan Rep. 18, 21 (Charts 2 and 3); Morgan Dep. 29:10-30:04; Morgan Dep. 79:08-12; Morgan Dep. 82:15-18.

228. The enacted HD Southwest contains six majority BVAP districts (HDs 137, 140, 141, 150, 153, and 154). Duchin Rep. at 36 (Table 19).

229. HD Alt 1 Southwest contains eight majority BVAP districts (HDs Alt 1 Southwest 137, 140, 141, 150, 151, 153, 154, 171). *Id.* (Table 19).

230. The table below provides a comparison between the enacted HD Southwest cluster and HD Alt 1 Southwest:

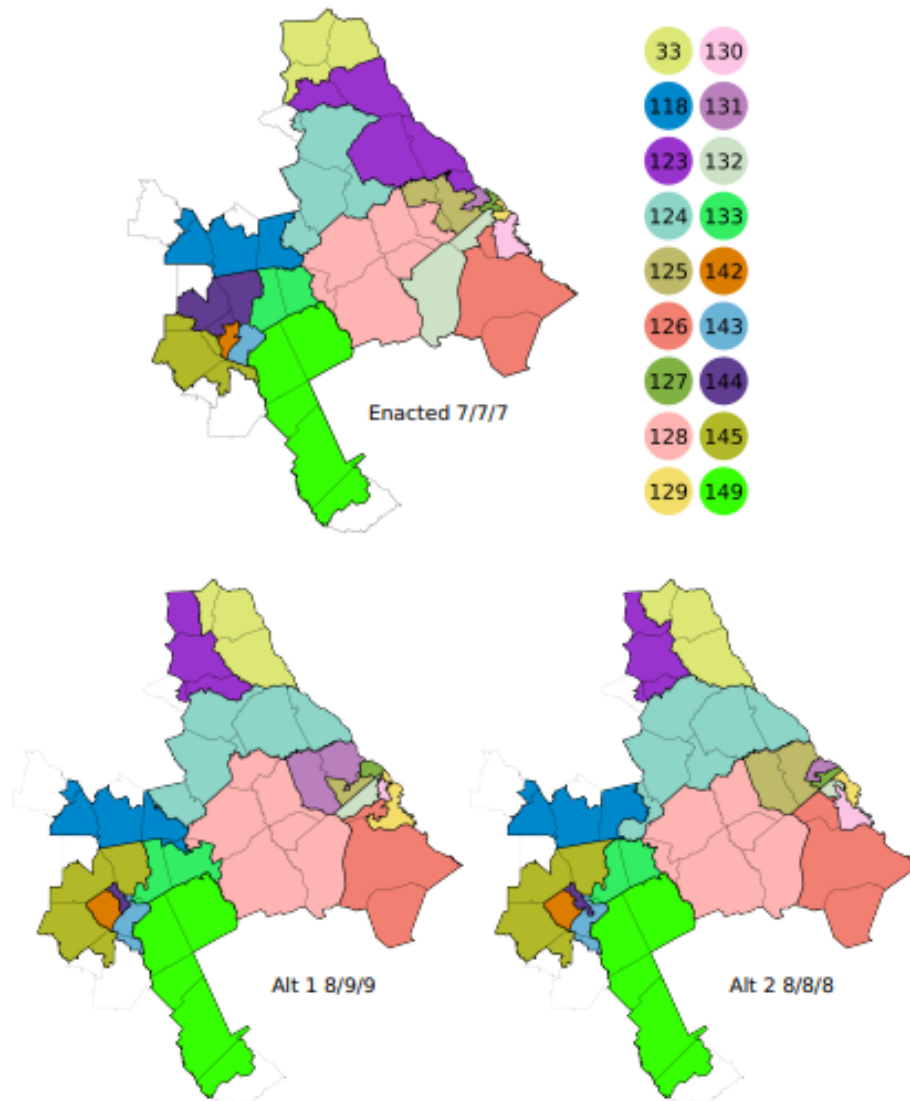
HD	HD Southwest Enacted						HD Alt 1					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
137	52.1%	4.5%	56.6%	40.8%	0.165	0.328	51.7%	3.7%	55.4%	42.0%	0.143	0.259
140	57.6%	8.0%	65.6%	31.7%	0.192	0.289	57.1%	7.9%	65.0%	32.4%	0.197	0.257
141	57.5%	6.6%	64.1%	31.8%	0.200	0.261	53.6%	6.7%	60.3%	35.5%	0.299	0.423
146	27.6%	4.7%	32.3%	61.8%	0.195	0.257	23.3%	4.9%	28.2%	64.4%	0.208	0.468
147	30.1%	7.2%	37.3%	55.3%	0.261	0.331	31.8%	7.2%	39.0%	55.1%	0.220	0.341
148	34.0%	3.1%	37.1%	60.4%	0.235	0.438	38.6%	3.4%	42.0%	56.1%	0.388	0.590
150	53.6%	6.1%	59.7%	38.3%	0.275	0.439	51.2%	5.3%	56.5%	41.5%	0.250	0.544
151	42.4%	7.3%	49.7%	47.2%	0.222	0.528	51.0%	7.5%	58.5%	38.6%	0.275	0.424
152	26.1%	2.3%	28.4%	67.9%	0.297	0.394	34.2%	3.2%	37.4%	58.7%	0.314	0.473
153	67.9%	2.5%	70.4%	27.7%	0.297	0.298	52.9%	2.7%	55.6%	43.0%	0.400	0.536
154	54.8%	1.7%	56.5%	42.2%	0.332	0.410	50.1%	2.1%	52.2%	45.7%	0.175	0.261
169	29.0%	7.7%	36.7%	61.0%	0.226	0.283	24.0%	9.0%	33.0%	64.6%	0.296	0.456
170	24.2%	8.7%	32.9%	64.2%	0.342	0.531	26.8%	12.5%	39.3%	57.9%	0.223	0.285
171	39.6%	4.6%	44.2%	53.9%	0.368	0.347	51.0%	4.0%	55.0%	43.4%	0.249	0.275
172	23.3%	13.4%	36.7%	61.0%	0.316	0.437	25.1%	9.4%	34.5%	63.1%	0.217	0.375
173	36.3%	5.4%	41.7%	55.7%	0.378	0.564	35.4%	5.6%	41.0%	56.4%	0.412	0.424
175	24.2%	5.0%	29.2%	66.5%	0.374	0.472	21.0%	5.7%	26.7%	68.7%	0.143	0.273
176	22.7%	8.2%	30.9%	66.2%	0.160	0.335	23.8%	6.2%	30.0%	67.1%	0.116	0.227
Avg					0.269	0.386					0.252	0.383

Table 19: HD Southwest Alt 1 splits 12 counties within the cluster, to the state's 10 split counties. Its 2290 cut edges are more than the state's 2094, though the Reock scores are nearly identical.

Id.

231. Dr. Duchin provided two alternative HD East Black Belt maps (“HD Alt 1 East Black Belt” and “HD Alt 2 East Black Belt”) that created additional majority-minority districts:

7.3.3 HD East Black Belt



Id. at 37 (Figure 14).

232. Defendants' expert Dr. Morgan testified he has no basis to dispute that it is possible to draw additional majority-minority house districts. Morgan Dep.

24:22-24:09; *see also* Morgan Rep. 18, 21 (Charts 2 and 3); Morgan Dep. 29:10-30:04; Morgan Dep. 79:08-12; Morgan Dep. 82:15-18.

233. The enacted HD East Black Belt contains seven majority BVAP districts (HDs 126, 128, 129, 130, 132, 142, and 143). Duchin Rep. at 38 (Table 20 and Table 21).

234. HD Alt 1 East Black Belt contains eight majority BVAP districts (HDs Alt 1 East Black Belt 126, 128, 129, 130, 132, 142, 142, and 144). HD Alt 1 East Black also contains a majority BHVAP district (HD Alt 1 East Black Belt 133). *Id.* (Table 20)

235. HD Alt 2 East Black Belt also contains eight majority BVAP districts (HD Alt 2 East Black Belt 126, 128, 129, 130, 132, 142, 142, 144). *Id.* (Table 21).

236. The tables below compare the enacted East Black Belt clusters with HD Alt 1 East Black Belt and HD Alt 2 East Black Belt:

HD	HD East Black Belt Enacted						HD Alt 1					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
33	11.2%	3.1%	14.3%	82.3%	0.371	0.487	18.7%	3.8%	22.5%	74.6%	0.405	0.343
118	23.6%	3.7%	27.3%	69.7%	0.223	0.350	23.2%	3.1%	26.3%	70.6%	0.218	0.329
123	24.3%	4.3%	28.6%	68.1%	0.178	0.295	13.3%	5.8%	19.1%	76.3%	0.281	0.357
124	25.6%	6.2%	31.8%	65.0%	0.233	0.442	28.4%	4.7%	33.1%	64.4%	0.224	0.362
125	23.7%	7.7%	31.4%	63.0%	0.173	0.409	24.1%	8.0%	32.1%	61.5%	0.255	0.328
126	54.5%	3.2%	57.7%	40.0%	0.414	0.516	52.5%	3.5%	56.0%	41.6%	0.322	0.534
127	18.5%	4.8%	23.3%	68.1%	0.201	0.351	14.6%	4.9%	19.5%	70.1%	0.585	0.546
128	50.4%	1.7%	52.1%	46.5%	0.319	0.601	50.1%	1.6%	51.7%	46.7%	0.357	0.628
129	54.9%	4.3%	59.2%	37.2%	0.254	0.482	51.9%	3.5%	55.4%	40.7%	0.108	0.314
130	59.9%	3.9%	63.8%	33.7%	0.255	0.508	54.4%	4.3%	58.7%	38.7%	0.253	0.451
131	17.6%	5.9%	23.5%	68.2%	0.283	0.377	27.1%	5.1%	32.2%	63.3%	0.285	0.604
132	52.3%	7.8%	60.1%	35.6%	0.296	0.270	53.6%	8.2%	61.8%	33.1%	0.293	0.243
133	36.8%	2.1%	38.9%	58.4%	0.415	0.543	48.7%	2.0%	50.7%	47.2%	0.178	0.385
142	59.5%	3.7%	63.2%	34.8%	0.229	0.353	50.8%	3.7%	54.5%	42.3%	0.539	0.605
143	60.8%	4.7%	65.5%	32.3%	0.299	0.502	52.4%	6.3%	58.7%	38.4%	0.176	0.332
144	29.3%	2.6%	31.9%	63.0%	0.325	0.510	50.4%	4.3%	54.7%	41.3%	0.299	0.298
145	35.7%	5.9%	41.6%	55.1%	0.194	0.376	23.1%	2.8%	25.9%	71.1%	0.204	0.422
149	32.1%	5.7%	37.8%	61.0%	0.223	0.325	32.1%	5.7%	37.8%	61.0%	0.223	0.325
Avg					0.271	0.428					0.289	0.411

Table 20: The Alt 1 map has 10 split counties within the HD East Black Belt cluster, while the enacted plan has 9. Its 1775 cut edges improves on the state's 1887, while also being more compact by Polsby-Popper.

HD	HD East Black Belt Enacted						HD Alt 2					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
33	11.2%	3.1%	14.3%	82.3%	0.371	0.487	18.3%	3.5%	21.8%	75.2%	0.370	0.323
118	23.6%	3.7%	27.3%	69.7%	0.223	0.350	27.0%	4.1%	31.1%	65.9%	0.229	0.342
123	24.3%	4.3%	28.6%	68.1%	0.178	0.295	13.7%	6.0%	19.7%	75.8%	0.293	0.395
124	25.6%	6.2%	31.8%	65.0%	0.233	0.442	25.5%	3.8%	29.3%	68.1%	0.234	0.381
125	23.7%	7.7%	31.4%	63.0%	0.173	0.409	30.2%	6.1%	36.3%	60.1%	0.396	0.670
126	54.5%	3.2%	57.7%	40.0%	0.414	0.516	50.7%	4.2%	54.9%	42.3%	0.394	0.494
127	18.5%	4.8%	23.3%	68.1%	0.201	0.351	17.6%	6.2%	23.8%	67.2%	0.267	0.264
128	50.4%	1.7%	52.1%	46.5%	0.319	0.601	50.2%	1.5%	51.7%	46.8%	0.409	0.672
129	54.9%	4.3%	59.2%	37.2%	0.254	0.482	50.4%	3.6%	54.0%	41.8%	0.248	0.323
130	59.9%	3.9%	63.8%	33.7%	0.255	0.508	57.1%	4.7%	61.8%	35.4%	0.231	0.325
131	17.6%	5.9%	23.5%	68.2%	0.283	0.377	17.6%	5.7%	23.3%	67.8%	0.318	0.373
132	52.3%	7.8%	60.1%	35.6%	0.296	0.270	54.4%	7.1%	61.5%	34.1%	0.219	0.278
133	36.8%	2.1%	38.9%	58.4%	0.415	0.543	46.6%	2.1%	48.7%	49.0%	0.296	0.438
142	59.5%	3.7%	63.2%	34.8%	0.229	0.353	50.1%	3.8%	53.9%	42.9%	0.436	0.605
143	60.8%	4.7%	65.5%	32.3%	0.299	0.502	52.9%	6.3%	59.2%	38.0%	0.143	0.316
144	29.3%	2.6%	31.9%	63.0%	0.325	0.510	51.0%	4.2%	55.2%	40.8%	0.226	0.243
145	35.7%	5.9%	41.6%	55.1%	0.194	0.376	23.1%	2.8%	25.9%	71.1%	0.190	0.359
149	32.1%	5.7%	37.8%	61.0%	0.223	0.325	32.1%	5.7%	37.8%	61.0%	0.223	0.325
Avg					0.271	0.428					0.285	0.396

Table 21: Alt 2 eliminates one county split relative to the enacted plan and has a sharply improved 1604 cut edges.

Id. (Table 20 and Table 21).

237. Dr. Duchin also provided alternative maps for the HD Southeast cluster (“HD Alt 1 Southeast”) that contains additional majority-minority districts:

7.3.4 HD Southeast

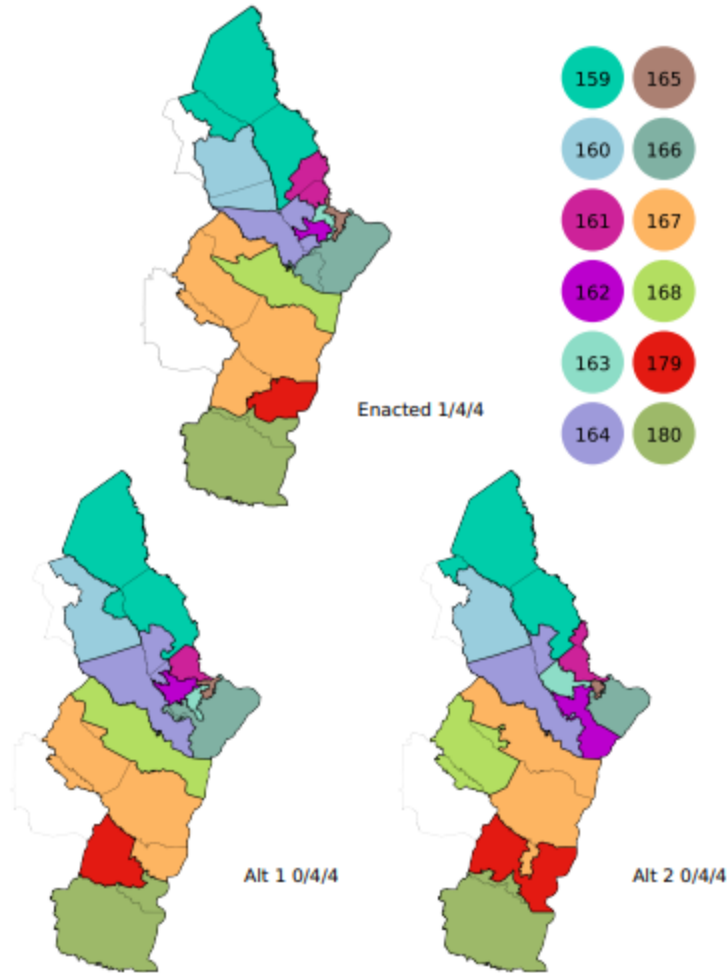


Figure 15: HD Southeast (12 districts).

Id. at 39 (Figure 15).

238. Defendants’ expert Dr. Morgan testified he has no basis to dispute that it is possible to draw additional majority-minority house districts. Morgan Dep. 24:22-24:09; *see also* Morgan Rep. at 24, 27 (Charts 2 and 3); Morgan Dep. 29:10-30:04; Morgan Dep. 79:08-12; Morgan Dep. 82:15-18.

239. Enacted HD Southeast contains one majority BVAP district (HD 165) and three majority BHVAP districts (HDs 162, 163, 168). Duchin Rep. at 40 (Table 22 and Table 23).

240. HD Alt 1 Southeast contains five majority BHVAP districts (HDs Alt 1 Southeast 161, 162, 163, 165 and 168). *Id.* (Table 22).

241. HD Alt 2 Southeast also contains five majority BHVAP districts (HDs Alt 2 Southeast 161, 162, 163, 165 and 168). *Id.* (Table 23).

242. The table below provides a comparison of the enacted HD Southeast cluster and HD Alt 1 Southeast and HD Alt 2 Southeast:

HD	HD Southeast Enacted						HD Alt 1					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
159	24.5%	2.9%	27.4%	69.4%	0.219	0.345	22.2%	3.7%	25.9%	70.5%	0.204	0.358
160	22.6%	5.0%	27.6%	68.5%	0.369	0.483	26.6%	5.1%	31.7%	64.7%	0.242	0.373
161	27.1%	6.8%	33.9%	60.2%	0.306	0.511	42.1%	8.8%	50.9%	42.7%	0.359	0.475
162	43.7%	9.6%	53.3%	40.6%	0.211	0.366	39.9%	10.5%	50.4%	42.6%	0.147	0.372
163	45.5%	7.4%	52.9%	41.9%	0.175	0.271	44.0%	6.9%	50.9%	43.7%	0.244	0.335
164	23.5%	8.5%	32.0%	60.6%	0.167	0.299	12.9%	5.1%	18.0%	76.5%	0.143	0.309
165	50.3%	5.3%	55.6%	39.2%	0.162	0.230	47.3%	4.7%	52.0%	42.9%	0.189	0.380
166	5.7%	4.1%	9.8%	84.7%	0.364	0.429	7.2%	4.7%	11.9%	82.4%	0.245	0.459
167	22.3%	7.4%	29.7%	66.0%	0.192	0.417	20.0%	6.2%	26.2%	70.1%	0.266	0.327
168	46.3%	10.3%	56.6%	39.3%	0.258	0.243	45.9%	10.7%	56.6%	39.2%	0.236	0.246
179	27.0%	6.4%	33.4%	63.7%	0.417	0.451	32.0%	7.5%	39.5%	56.9%	0.433	0.539
180	18.2%	5.6%	23.8%	71.2%	0.396	0.606	17.0%	5.4%	22.4%	72.8%	0.348	0.594
Avg					0.270	0.388					0.255	0.397

Table 22: HD Southeast Alt 1 has fewer county splits (5 vs. 6) and a better cut edges score (1122 vs. 1245) than the enacted plan.

HD	HD Southeast Enacted						HD Alt 2					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
159	24.5%	2.9%	27.4%	69.4%	0.219	0.345	22.0%	3.6%	25.6%	70.7%	0.192	0.356
160	22.6%	5.0%	27.6%	68.5%	0.369	0.483	26.3%	5.1%	31.4%	64.9%	0.333	0.515
161	27.1%	6.8%	33.9%	60.2%	0.306	0.511	41.6%	10.0%	51.6%	42.2%	0.180	0.332
162	43.7%	9.6%	53.3%	40.6%	0.211	0.366	43.0%	8.5%	51.5%	42.5%	0.191	0.341
163	45.5%	7.4%	52.9%	41.9%	0.175	0.271	42.7%	7.7%	50.4%	43.1%	0.282	0.411
164	23.5%	8.5%	32.0%	60.6%	0.167	0.299	13.4%	5.5%	18.9%	75.6%	0.168	0.290
165	50.3%	5.3%	55.6%	39.2%	0.162	0.230	45.5%	5.0%	50.5%	44.4%	0.229	0.501
166	5.7%	4.1%	9.8%	84.7%	0.364	0.429	7.2%	4.1%	11.3%	83.0%	0.391	0.653
167	22.3%	7.4%	29.7%	66.0%	0.192	0.417	36.5%	7.4%	43.9%	52.5%	0.204	0.331
168	46.3%	10.3%	56.6%	39.3%	0.258	0.243	40.9%	10.8%	51.7%	44.3%	0.327	0.555
179	27.0%	6.4%	33.4%	63.7%	0.417	0.451	18.7%	6.0%	24.7%	71.6%	0.196	0.454
180	18.2%	5.6%	23.8%	71.2%	0.396	0.606	18.6%	5.7%	24.3%	70.7%	0.346	0.577
Avg					0.270	0.388					0.253	0.443

Table 23: Alt 2 also has just 5 county splits, to go with 1263 cut edges.

Id. (Table 22 and Table 23).

C. Compactness and Traditional Redistricting Principles

243. Dr. Duchin concluded that it is possible to draw these additional majority-minority districts in the congressional, senate, and house plans while comporting with traditional redistricting principles. Duchin Rep. at 5; Duchin Dep. 65:06-66:09.

244. Defendants’ expert Dr. Morgan testified that he has no basis to dispute that Dr. Duchin’s illustrative majority-minority districts are “reasonably configured.” Morgan Dep. at 21:12-28:08; *see also* Morgan Rep. at 18, 21-22, 24, 27-28 (Charts 2, 3, 5, 6, and 7).

245. Dr. Duchin testified that throughout the map-drawing process, she balanced these redistricting principles. Duchin Dep. 122:08-18.

246. Dr. Duchin examined several of the qualitative and quantitative redistricting principles codified by the Georgia legislature. Duchin Rep. at 20-24.

247. All of the districts in all of Dr. Duchin’s illustrative congressional, senate, and house district are contiguous. Duchin Rep. at 20.

248. As demonstrated by the chart below, Dr. Duchin tightly balanced the populations of each of her illustrative congressional, senate, and house maps:

	Maximum positive deviation	Maximum negative deviation	Top-to-bottom deviation
EnactedCD	+1	-1	2
DuncanKennedy CD Alt	+2	-1	3
	+1	-1	2
EnactedSD	+1879	-1964	3843 (2.01%)
SD Alt Eff 1	+2457	-2598	5055 (2.64%)
SD Alt Eff 2	+2547	-2490	5037 (2.63%)
SD Alt Eff 3	+3200	-3305	6505 (3.40%)
EnactedHD	+797	-833	1630 (2.74%)
HD Alt Eff 1	+1194	-1176	2370 (3.98%)
HD Alt Eff 2	+1222	-1097	2319 (3.90%)
HD Alt Eff 3	+1173	-1026	2199 (3.70%)

Id. at 20 (Table 7).

249. Dr. Duchin compared the overall average district compactness scores of the enacted plans and each of her illustrative plans under the Polsby-Popper, Reock, and “cut edges” approach, as demonstrated by the chart below:

	avg Polsby-Popper (higher is better)	avg Reock (higher is better)	Block cut edges (lower is better)
BenchmarkCD	0.238	0.452	5775
EnactedCD	0.267	0.441	5075
DuncanKennedy	0.295	0.471	4665
CD Alt	0.301	0.473	4665
BenchmarkSD	0.250	0.421	12,549
EnactedSD	0.287	0.418	11,005
SD Alt Eff 1	0.287	0.427	10,897
SD Alt Eff 2	0.296	0.440	10,349
SD Alt Eff 3	0.295	0.431	10,479
BenchmarkHD	0.244	0.382	24,001
EnactedHD	0.278	0.391	22,014
HD Alt Eff 1	0.261	0.391	21,843
HD Alt Eff 2	0.263	0.399	21,907
HD Alt Eff 3	0.279	0.403	20,917

Table 8: Compactness scores for each plan submitted with January 13 Report.

Canter Decl ¶ 28 (Moon Duchin Notice of Errata (“Duchin Errata”) at 2 (April 26, 2023)).

250. Dr. Duchin opined that overall compactness scores of her illustrative districts are comparable or better than the enacted plan, as demonstrated by the tables above. Duchin Rep. at 6 (Figure 1) and 21 (Table 8); Duchin Dep. 103:09-106:05; Duchin Rep. at 25 (Table 11); Duchin Rep. at 27 (Table 12); *Id.* (Table 13); *Id.* at 29 (Table 14); *Id.* at 31 (Table 15); *Id.* (Table 16); *Id.* (Table 17); *Id.* (Table 18); *Id.* at

36 (Table 19); *Id.* at 38 (Table 20); *Id.* (Table 21); *Id.* at 40 (Table 22); *Id.* (Table 23).

251. Dr. Duchin also compared the compactness scores of each of the individual districts in the district clusters she examined as part of her *Gingles* 1 analysis and determined that each of the clusters were as compact or comparable, and that each of the districts in those clusters were as compact or comparable. Duchin Rep. at 25- 40 (Tables 11-23).

252. Dr. Morgan testified that Dr. Duchin's illustrative plans were as compact or comparable. *See* Morgan Dep. 79:13-82:18.

253. Dr. Duchin also opined that her alternative plans respect the integrity of political subdivisions such as counties, cities, and voting precincts. Duchin Rep. 5, 22.

254. The chart below compares the number of political subdivisions splits in the enacted plans with Dr. Duchin's illustrative plans:

	County Splits (out of 159)	County Pieces	Muni Splits (out of 538)	Muni Pieces	Precinct Splits (out of 2685)	Precinct Pieces
BenchmarkCD	16	38	67	141	67	134
EnactedCD	15	36	64	136	86	172
DuncanKennedy CD Alt	15	36	53	114	66	132
	13	30	58	127	47	95
BenchmarkSD	37	100	114	269	154	309
EnactedSD	29	89	109	266	144	289
SD Alt Eff 1	33	95	112	275	110	221
SD Alt Eff 2	26	78	108	264	97	196
SD Alt Eff 3	29	84	108	264	106	213
BenchmarkHD	72	284	169	506	303	630
EnactedHD	69	278	166	494	352	724
HD Alt Eff 1	73	276	164	492	279	570
HD Alt Eff 2	69	266	168	494	276	567
HD Alt Eff 3	69	265	165	478	277	567

Id. at 22 (Table 9). *See also* Duchin Errata at 3.

255. Although Dr. Duchin did not have access to incumbent addresses, she did examine incumbency through analyzing core retention. *Id.* at 24.

256. Defendants’ mapping expert explained that “protecting incumbents, including preserving cores of districts, is a traditional redistricting principle. Continuity of district representation is a traditional districting factor. Voters and residents establish relationships with their elected representatives.” Morgan Rep. at 8-9.

257. Dr. Duchin determined that the legislature “placed a low priority on core retention, i.e., on maintaining voters in the same districts as they belonged to in the benchmark “congressional, senate, and house plans. Duchin Rep. at 24; Duchin

Dep. 115:06-119:10. Dr. Duchin determined that core retention was particularly poor in the enacted house plan. Duchin Rep. at 24.

258. Dr. Duchin reviewed a voluminous record of public testimony. Duchin Dep. 68:18-69:10. This community of interest testimony informed Dr. Duchin's hand-drawing process. *Id.* 70:08-70:71:06; 79:09-79:16; 163:15-163:25. *See also* Duchin Rep. at 79-80. *See also* Bagley Rep. at 48, 50, 52, 53.

V. *Gingles* 2: Minority Group Political Cohesion in Georgia.

A. Contemporary Evidence of Minority Group Cohesive Voting

259. Plaintiffs' expert Dr. Benjamin Schneer completed a racially polarized voting ("RPV") analysis. *See generally* Canter Decl. ¶ 24 (Expert Report of Benjamin Schneer ("Schneer Rep.")).

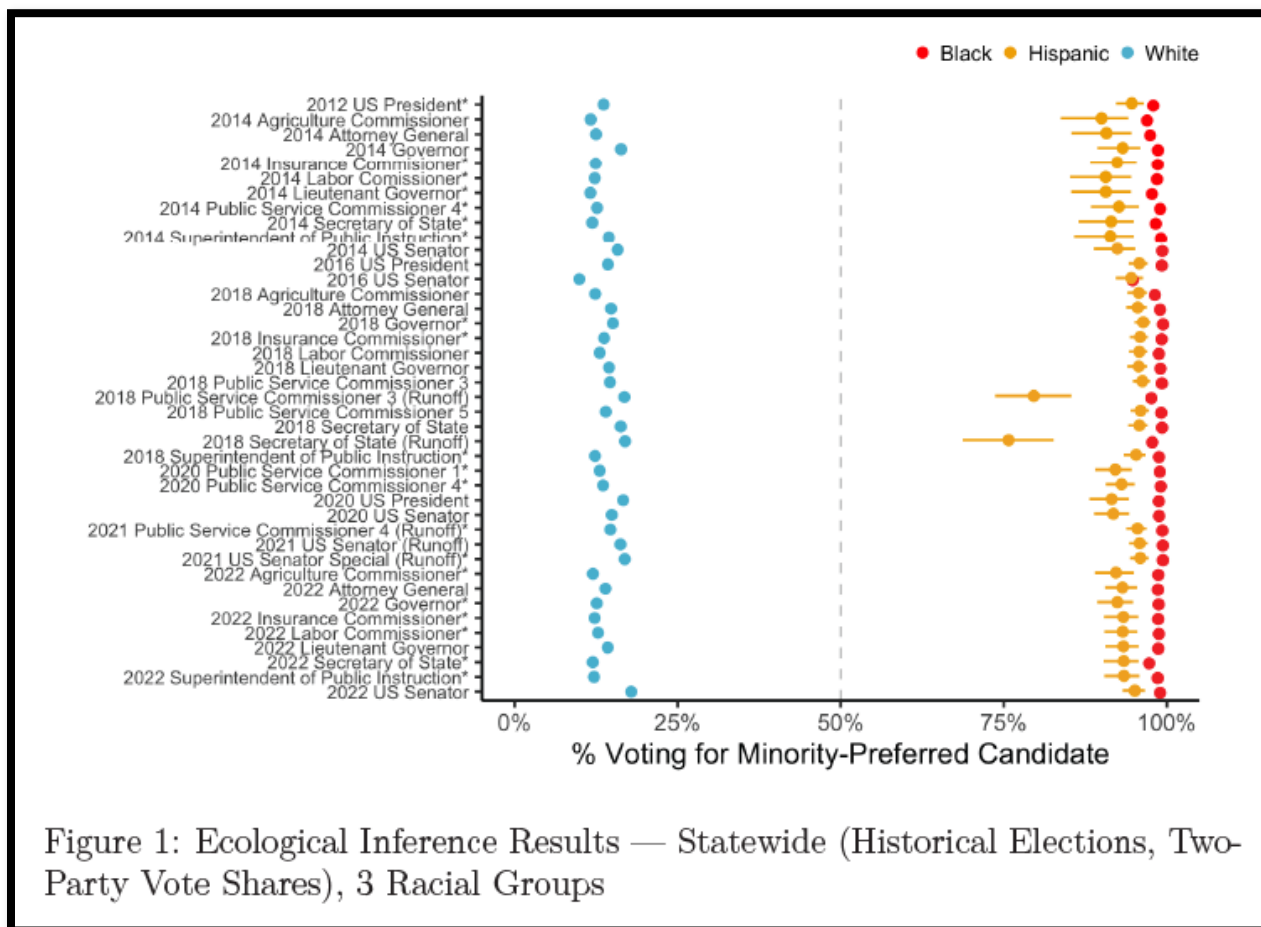
260. "To identify instances of RPV in Georgia," Dr. Schneer "examine[d] (1) whether members of a minority group of interest appear to be *cohesive* in their electoral support for a candidate of choice (Specifically, does more than half of a given minority group support the same candidate?); and, (2) whether White voters oppose this candidate (Specifically, do more than half of White voters oppose the minority candidate of choice?)." Schneer Rep. at 6.

261. Dr. Schneer's analysis relied on historical voting data in Georgia going back to 2012. *Id.* at 6-7.

1. Statewide Evidence of Minority Group Cohesive Voting

262. Dr. Schneer opined that "Black and Hispanic voters' past behavior in statewide elections reveals that these groups had a clear candidate of choice in each election, with large majorities of these voters supporting the same candidate in each election and voting cohesively." *Id.* at 17; *id.* at 18 (Figure 1).

263. Defendants’ expert Dr. Alford does not dispute any of these individual findings. In Dr. Alford’s report he noted that Dr. Schmeer “... provide[d] analysis that demonstrates that Black voters provide uniformly high levels of support for Democratic candidates and white voters provide uniformly high levels of support for Republican candidates.” Canter Decl. ¶ 25 (Expert Report of John Alford (“Alford Rep.”) at 4).



264. During his deposition, Dr. Alford, further testified, “I reach the same conclusion [as Dr. Schneer and Dr. Brunell] with regard to if the standard is simply that two racial groups are voting in opposite directions then it abundantly clear from everything that's in evidence in this case.” See Canter Decl. ¶ 26 (Deposition of John Alford (“Alford Dep.”) 126:22-127:21).

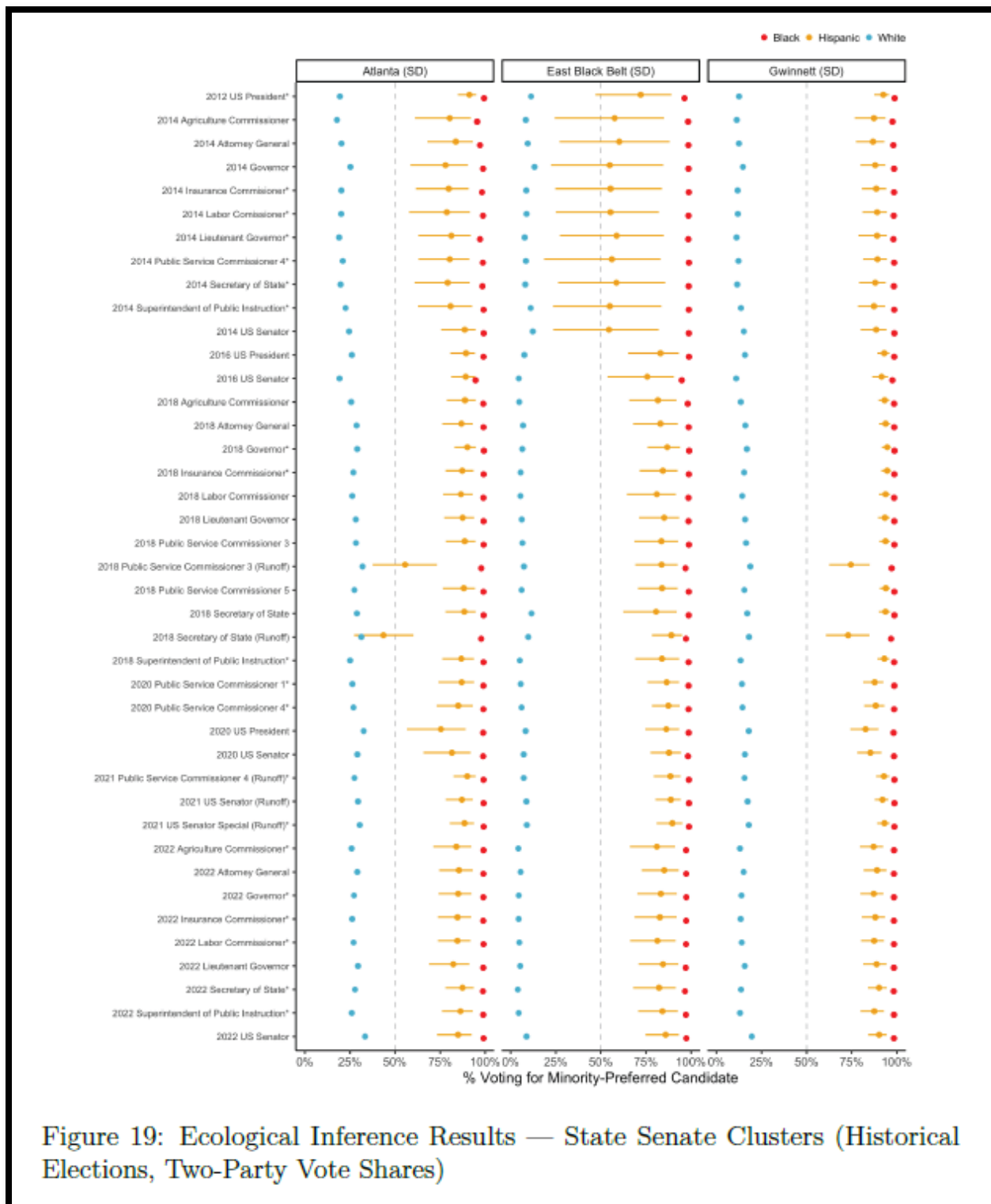
2. Cluster-Level Evidence of Minority Group Cohesive Voting

265. Dr. Schneer concluded that “[a]cross [SD Atlanta, SD Gwinnet, and SD East Black Belt, there is] RPV between White and Black voters. For each cluster, Black voters cohesively support a candidate of choice.” *Id.*

266. Dr. Schneer also concluded that “in the Atlanta and Gwinnett clusters, Hispanic voters cohesively support the same candidate of choice as Black voters and the lower confidence interval on the vote share estimate does not overlap with[] the 50% threshold in all elections where a minority candidate runs against a non-minority candidate.” *Id.*

267. Dr. Schneer also concluded that in the East Black Belt cluster, Hispanic voters... systematically support the same candidates of choice as Black voters,” although the “estimates for elections before 2016 tend to be more uncertain, with the confidence including the 50% threshold.” *Id.*

268. The figure below reflects the results of Dr. Schneer's racially polarized voting analysis for each of these clusters.



Id. at 47 (Figure 19).

269. Dr. Schneer concluded that there is “evidence of RPV between White and Black voters across all state House clusters I examine[d]. Black voters cohesively support a candidate of choice[.]” *Id.*

270. Dr. Schneer also concluded that “Hispanic voters join black voters in supporting the same candidate of choice in each [house district] cluster.” *Id.*

271. The figure below reflects the results of Dr. Schneer’s racially polarized voting analysis for HD Atlanta, HD Southwest, HD East Black Belt, and HD Southeast. *Id.* at 48 (Figure 20).



Figure 20: Ecological Inference Results — State House Clusters (Historical Elections, Two-Party Vote Shares)

Id. at 48 (Figure 20)

3. Congressional District-Level Evidence of Minority Group Cohesive Voting

272. Dr. Schneer concluded that there is “RPV between Black voters on the one hand and White voters on the other hand when pooling across all [of the districts in the Enacted Congressional Map] (e.g., statewide) as well as specifically for all [districts in the Enacted Congressional Map] other than CD 5.” *Id.* at 21.

273. Dr. Schneer stated that “[i]n [enacted Congressional districts] 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13 and 14, Black voters supported, by an overwhelming margin, the minority candidate in all historical elections in which they ran.” *Id.* at 19.

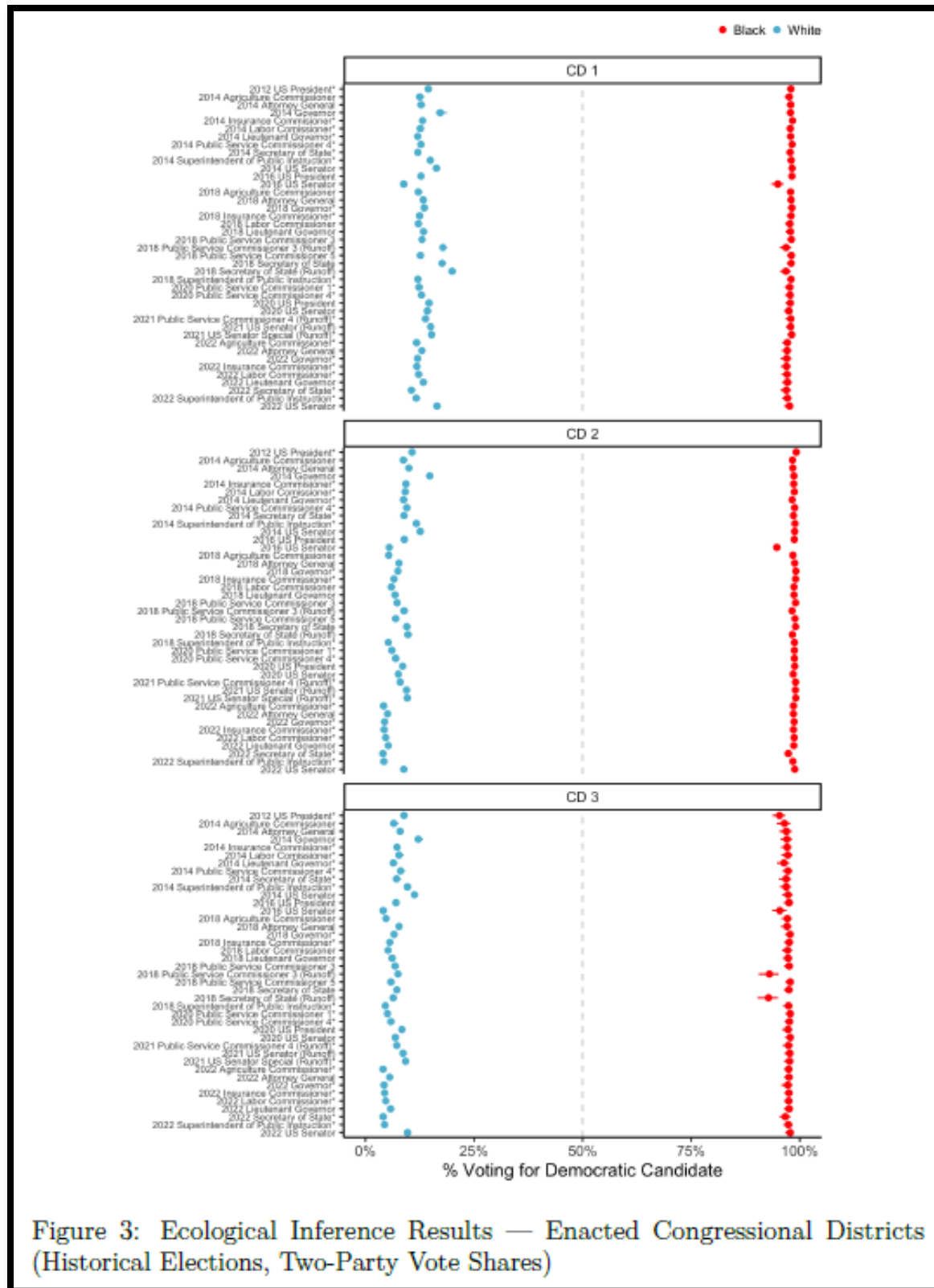
274. Dr. Schneer stated that “CD 3 demonstrates clear evidence of RPV between White and Black voters for all elections that I examine[d]. For Black voters, I never estimate[d] a minority-preferred candidate vote share below 92.8%.” *Id.* at 20.

275. Dr. Schneer stated that “CD 7 presents [a] strong example among the congressional districts of RPV, with Black voters cohering around minority candidates (and other minority-preferred candidates) . . . In every election with a minority candidate running against a non-minority candidate, minority voters supported the minority candidate, often overwhelmingly.” *Id.*

276. Dr. Schneer also produced five figures that reflect the results of his racially polarized voting analysis for all of the districts in the Enacted Congressional Map. *Id.* at 24 (Figure 3); 25 (Figure 4); 26 (Figure 5); 27 (Figure 6); 28 (Figure 7).

277. The figures reflect that Black voters in each district in the Enacted Congressional Map vote cohesively for the same candidate of choice. *Id.* at 24 (Figure 3); 25 (Figure 4); 26 (Figure 5); 27 (Figure 6); 28 (Figure 7).

278. The five figures from Dr. Schneer's report reflecting this information are presented on the following five pages.



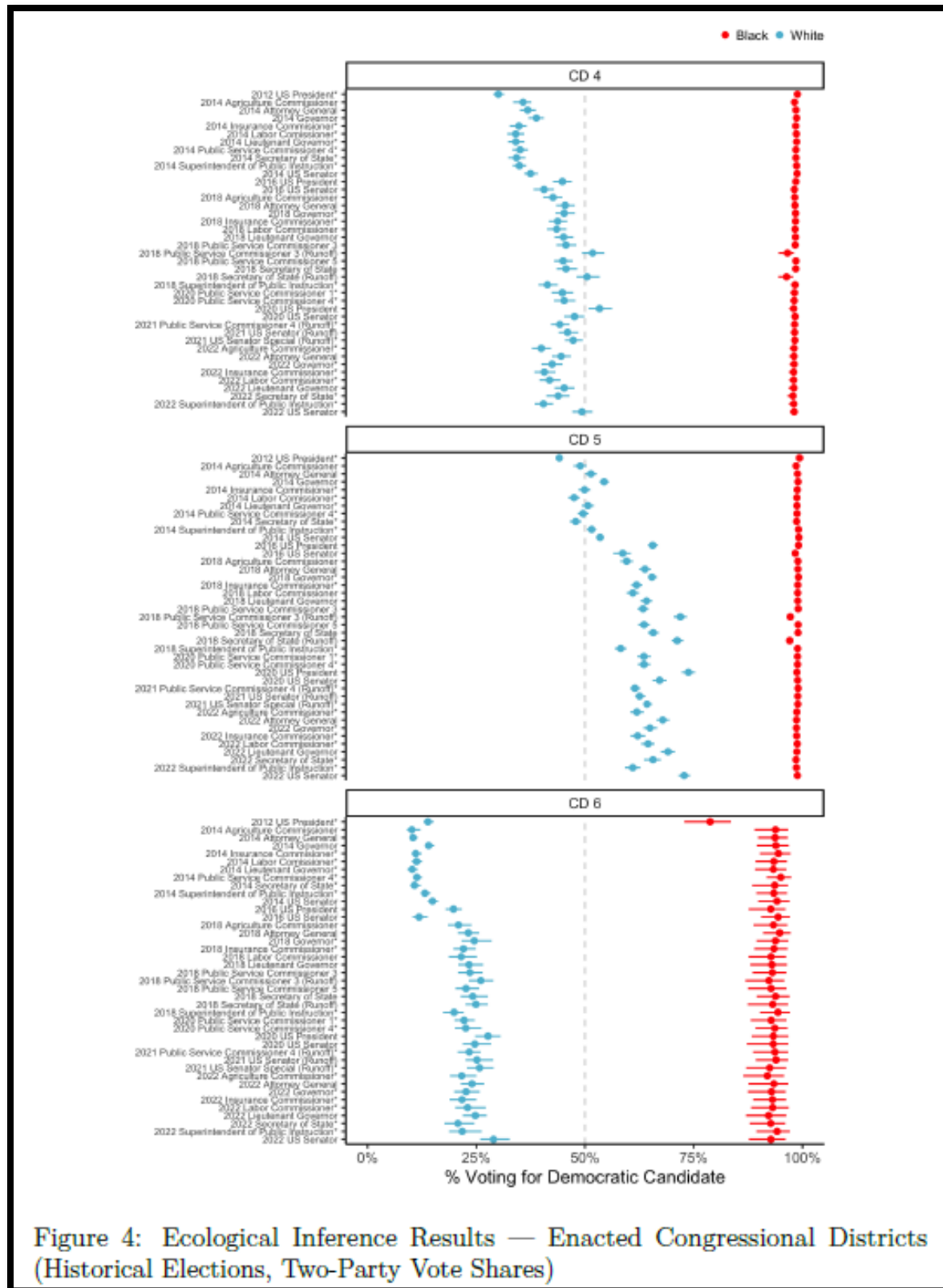


Figure 4: Ecological Inference Results — Enacted Congressional Districts (Historical Elections, Two-Party Vote Shares)

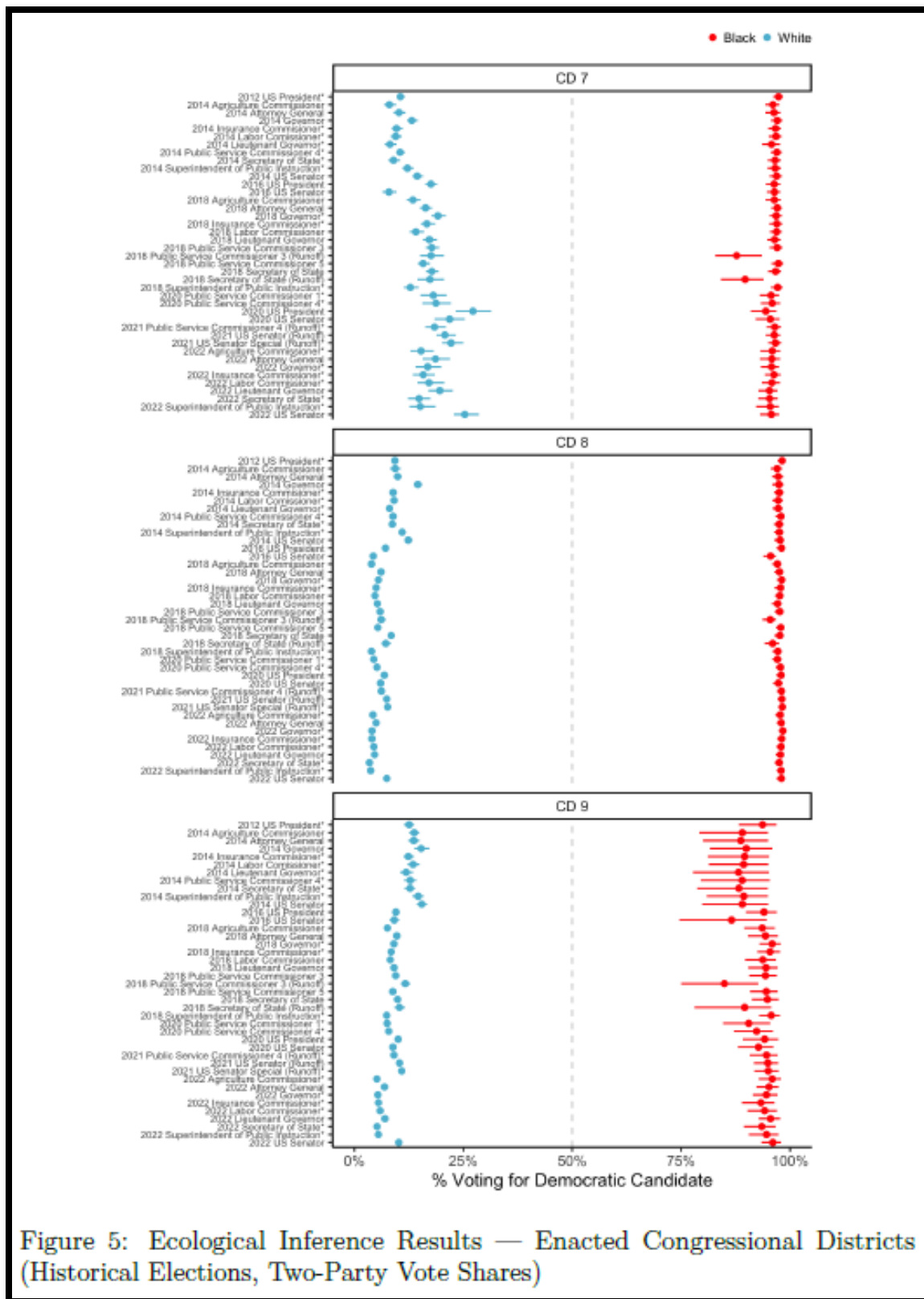
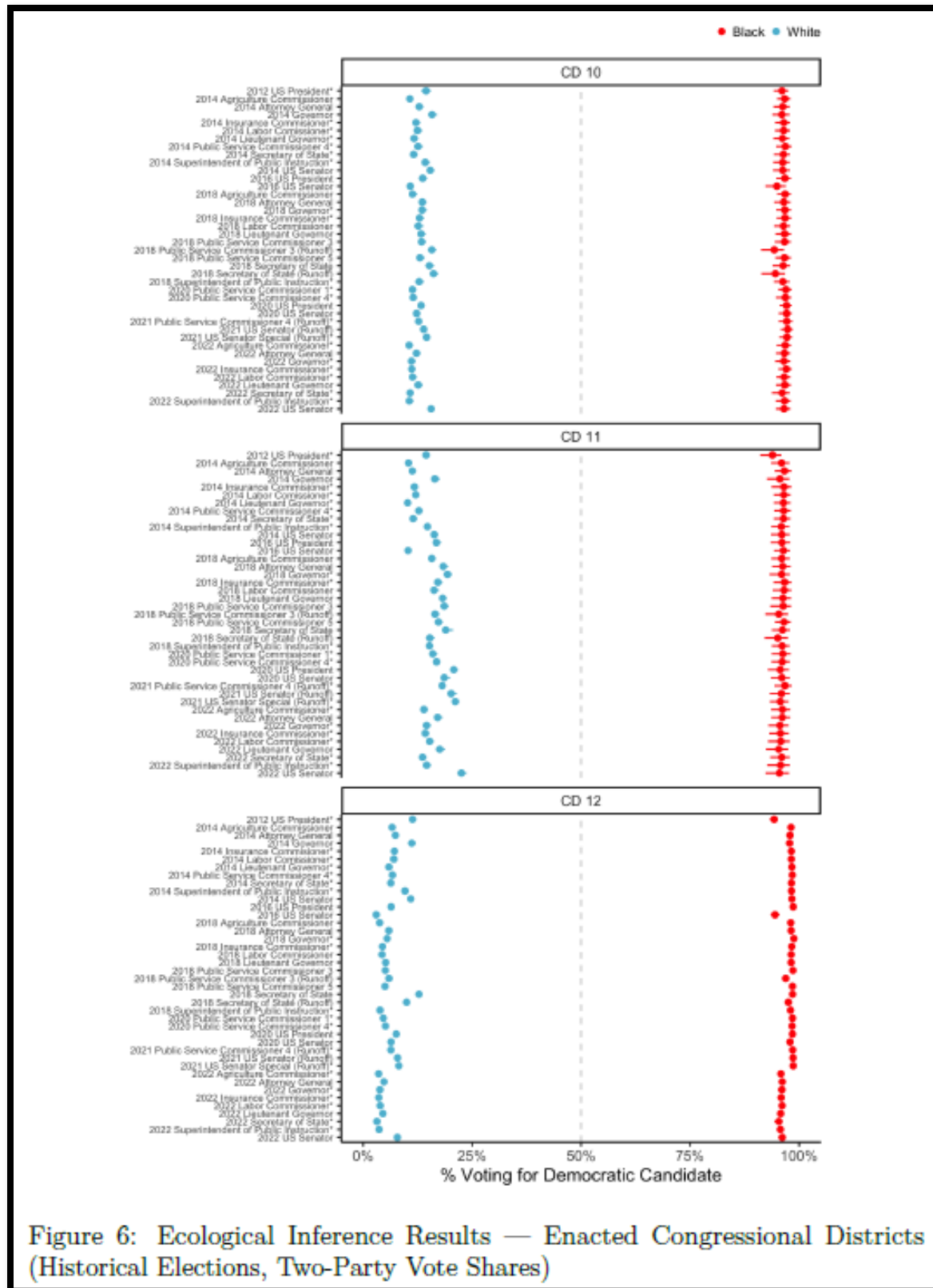
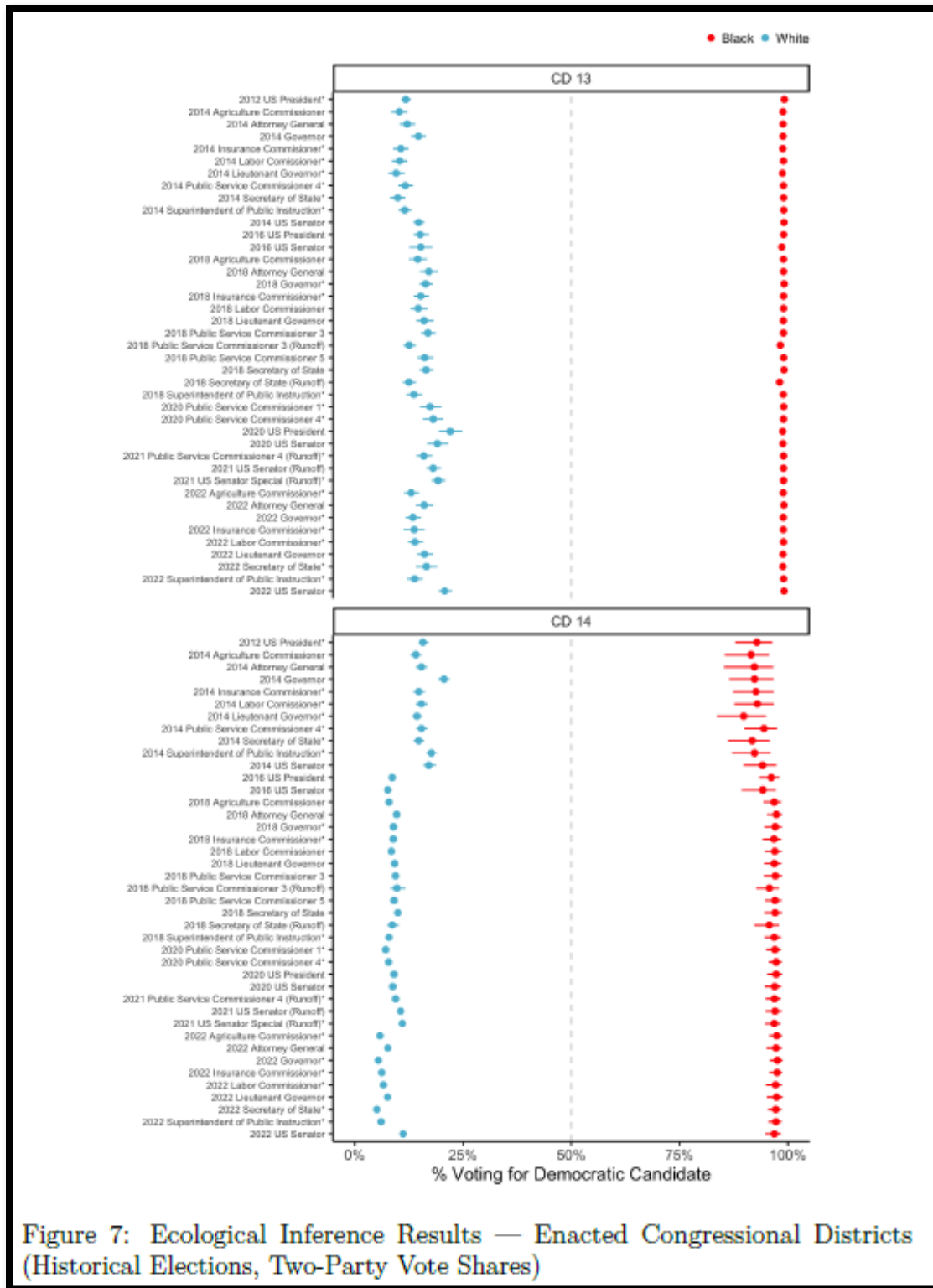


Figure 5: Ecological Inference Results — Enacted Congressional Districts (Historical Elections, Two-Party Vote Shares)

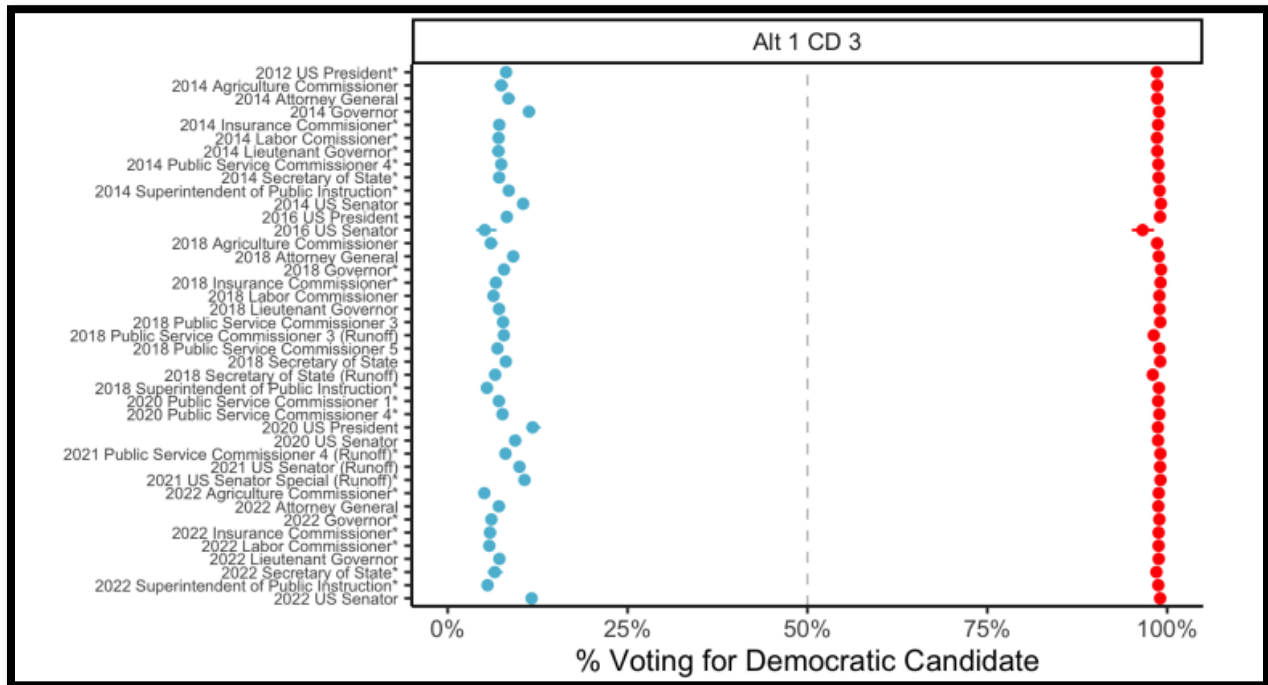


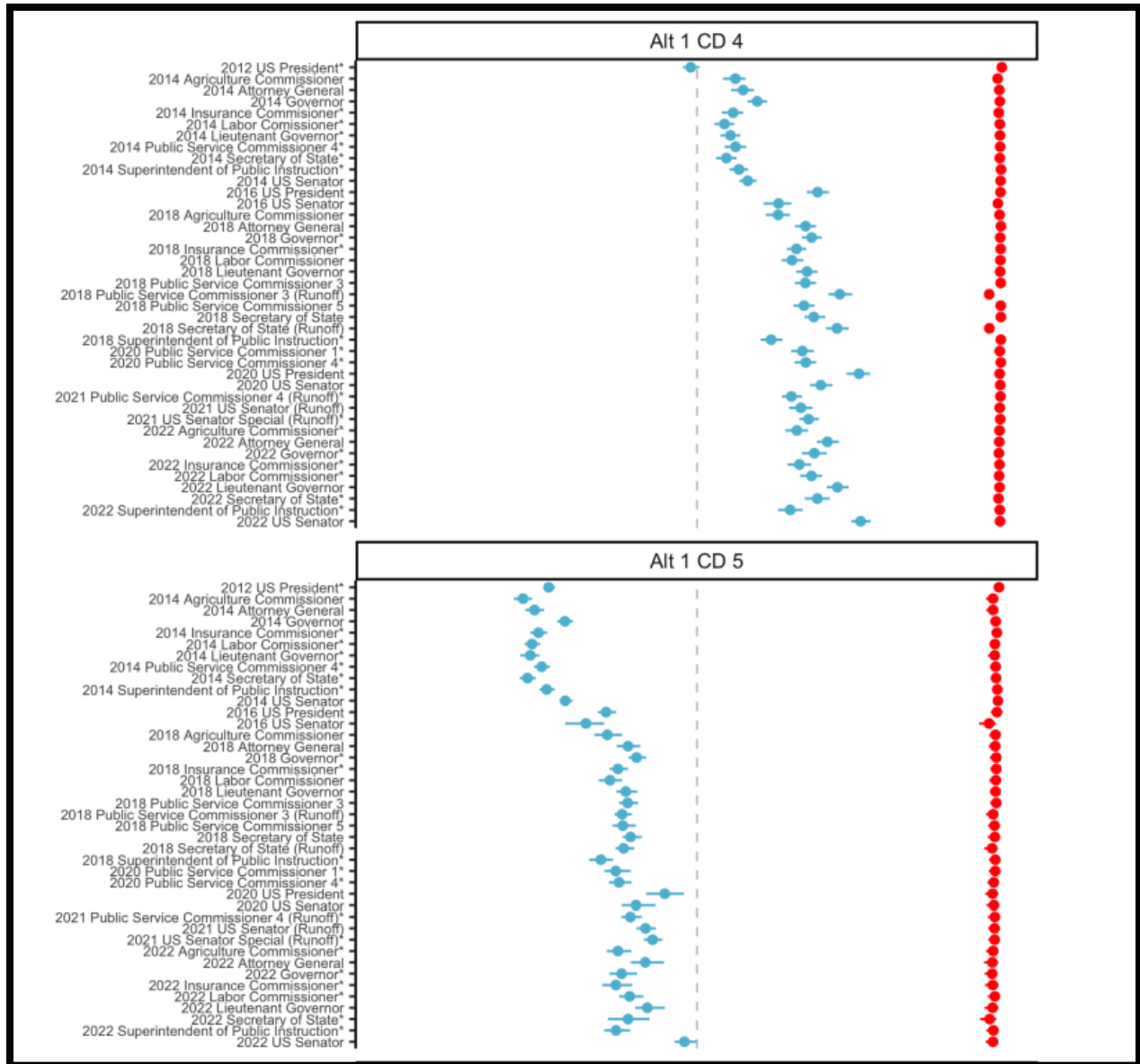


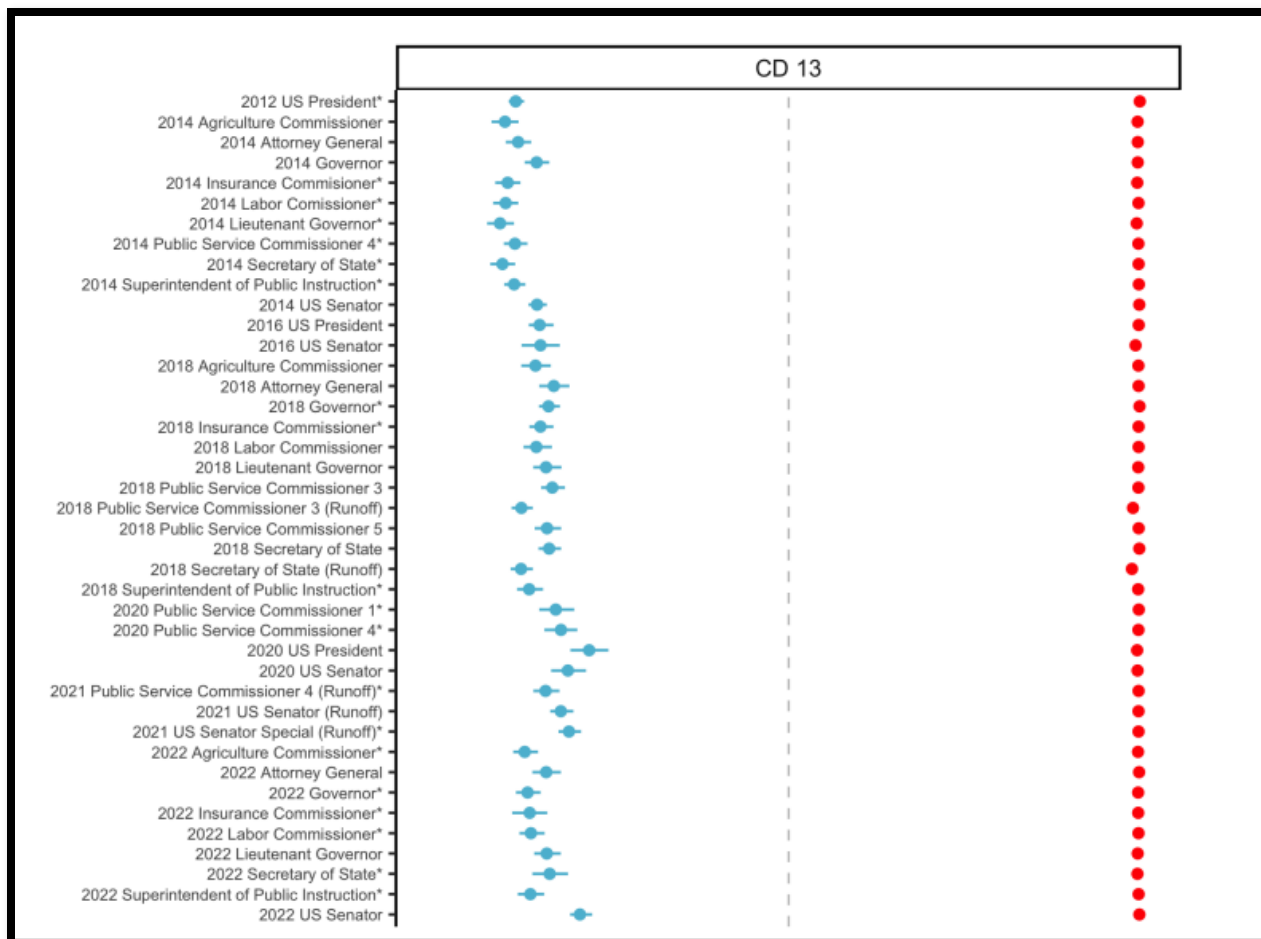
Id. at 24 (Figure 3); 25 (Figure 4); 26 (Figure 5); 27 (Figure 6); 28 (Figure 7).

279. Dr. Schneer analyzed whether there is Black cohesive voting in each district that Dr. Duchin drew in her Congressional Alt 1 Map. *Id.* at 57.

280. Dr. Schneer’s analysis demonstrates extremely strong cohesion—over 75%—among Black voters for every majority-Black district in the Demonstrative Congressional Map (Demonstrative CDs 3, 5, and 13), as reflected in the table below: *Id.*







Id. at 58 (Figure 21).

4. State Senate District-Level Evidence of Minority Group Cohesive Voting

281. Dr. Schneer analyzed whether this is Black cohesive voting in the following districts in the Enacted State Senate Map: SD 9, SD 16, SD 17, SD 22, SD 23, SD 25, SD 26, SD 28, SD 34, SD 35, SD 40, SD 41, SD 43, SD 44, and SD 55.

Id. 29-30.

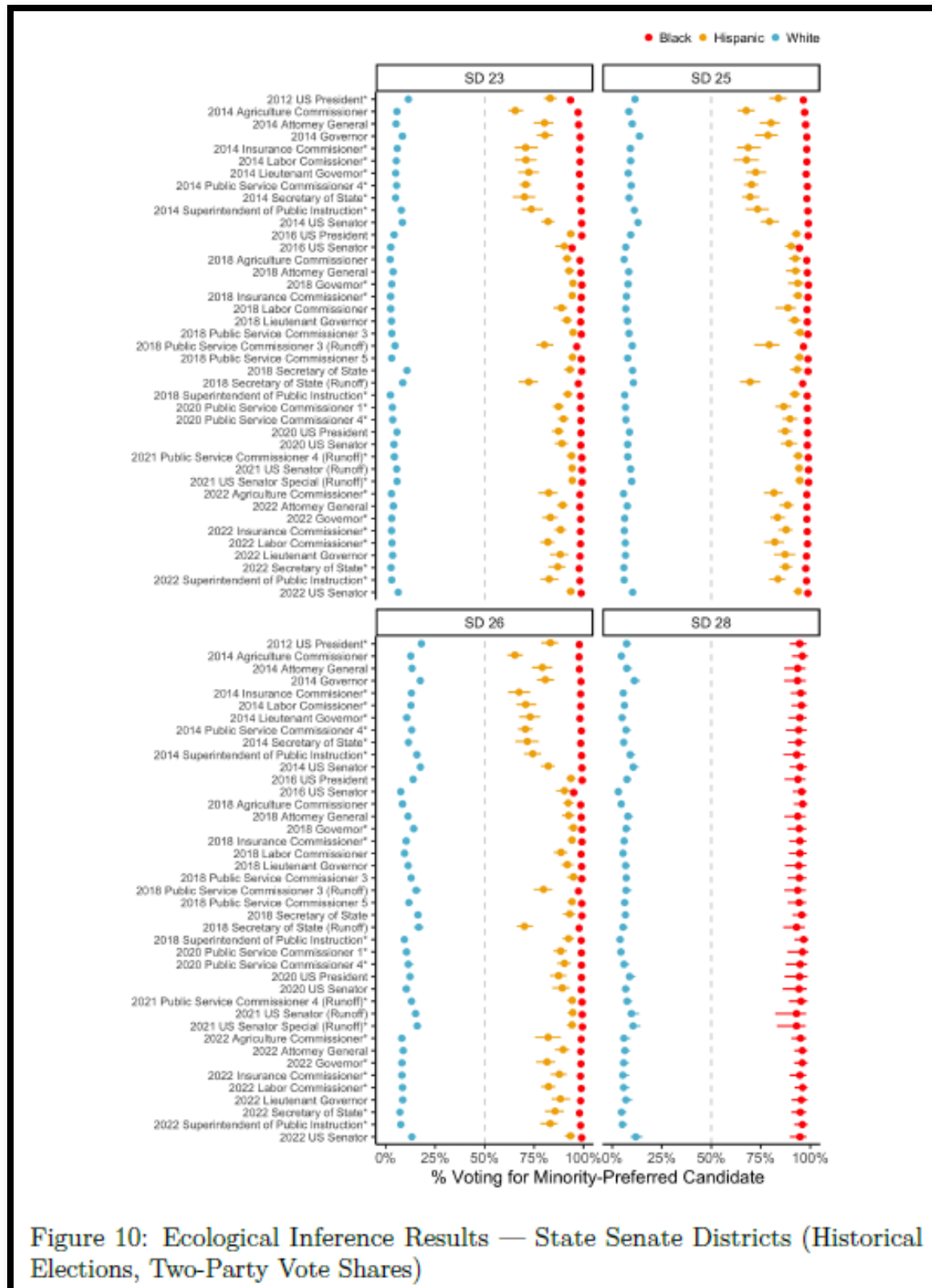
282. Dr. Schmeer concluded that apart from SD 41 and potentially also from SD 40, “there is evidence of racially polarized voting behavior between Black and White voters in every other State Senate district I analyzed. Black voters clearly supported the minority-preferred candidate in every election under study, including those elections with a minority candidate running.” *Id.* at 30.

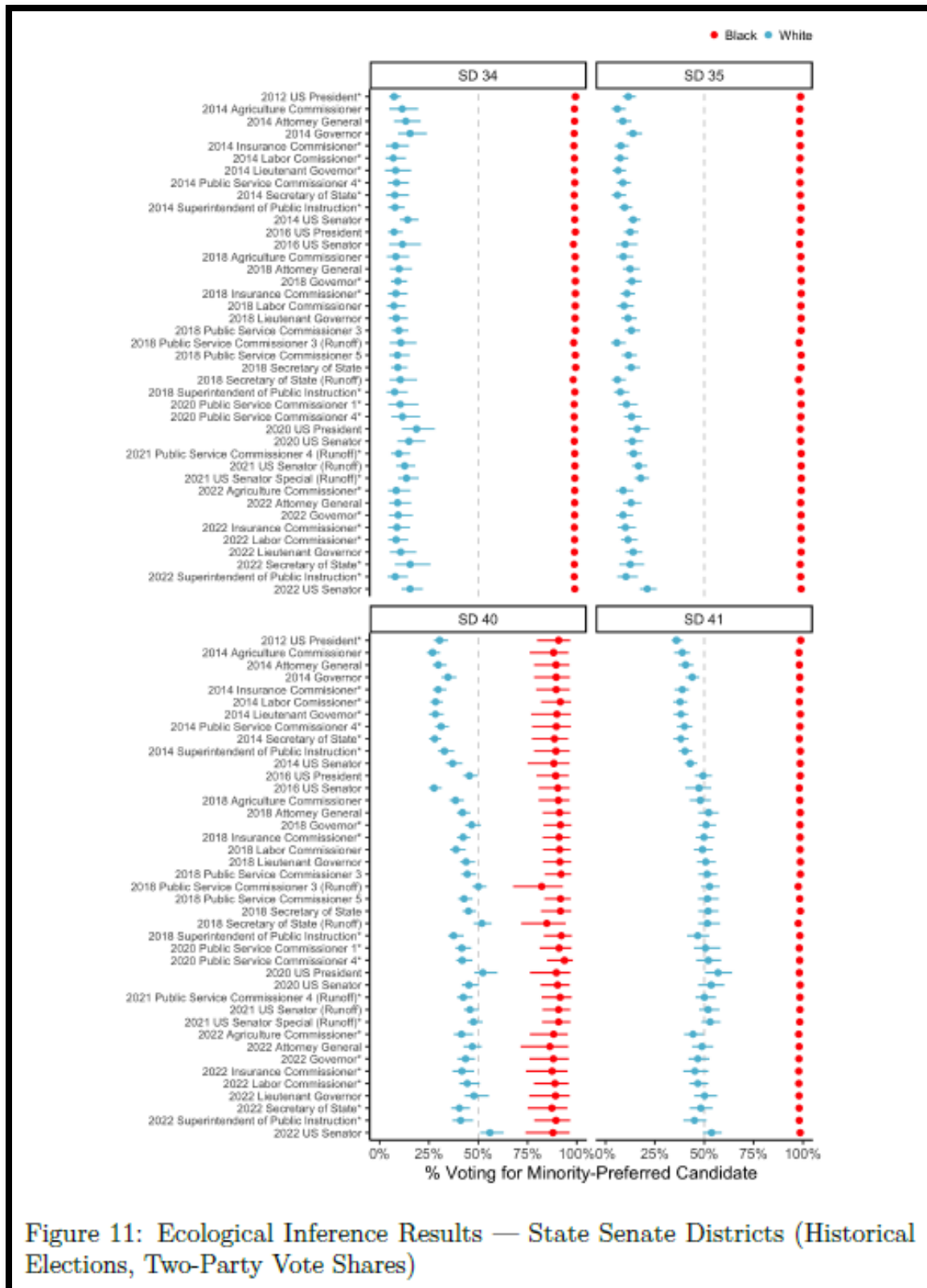
283. Dr. Schmeer also concluded that [Enacted State Senate Map districts] 16, 22, 23, 25, 26, and 44 exhibit clear evidence of RPV with Black and Hispanic voters cohering around minority candidates[.]” *Id.* at 29-30.

284. Dr. Schmeer produced four figures that reflect the results of his racially polarized voting analysis for all of the Enacted State Senate Map districts which he analyzed (i.e., SD 9, SD 16, SD 17, SD 22, SD 23, SD 25, SD 26, SD 28, SD 34, SD 35, SD 40, SD 41, SD 43, SD 44, and SD 55). *Id.* at 32 (Figure 9); 33 (Figure 10); 34 (Figure 11); 35 (Figure 12).

285. The four figures from Dr. Schmeer’s report reflecting this information are presented on the following four pages.







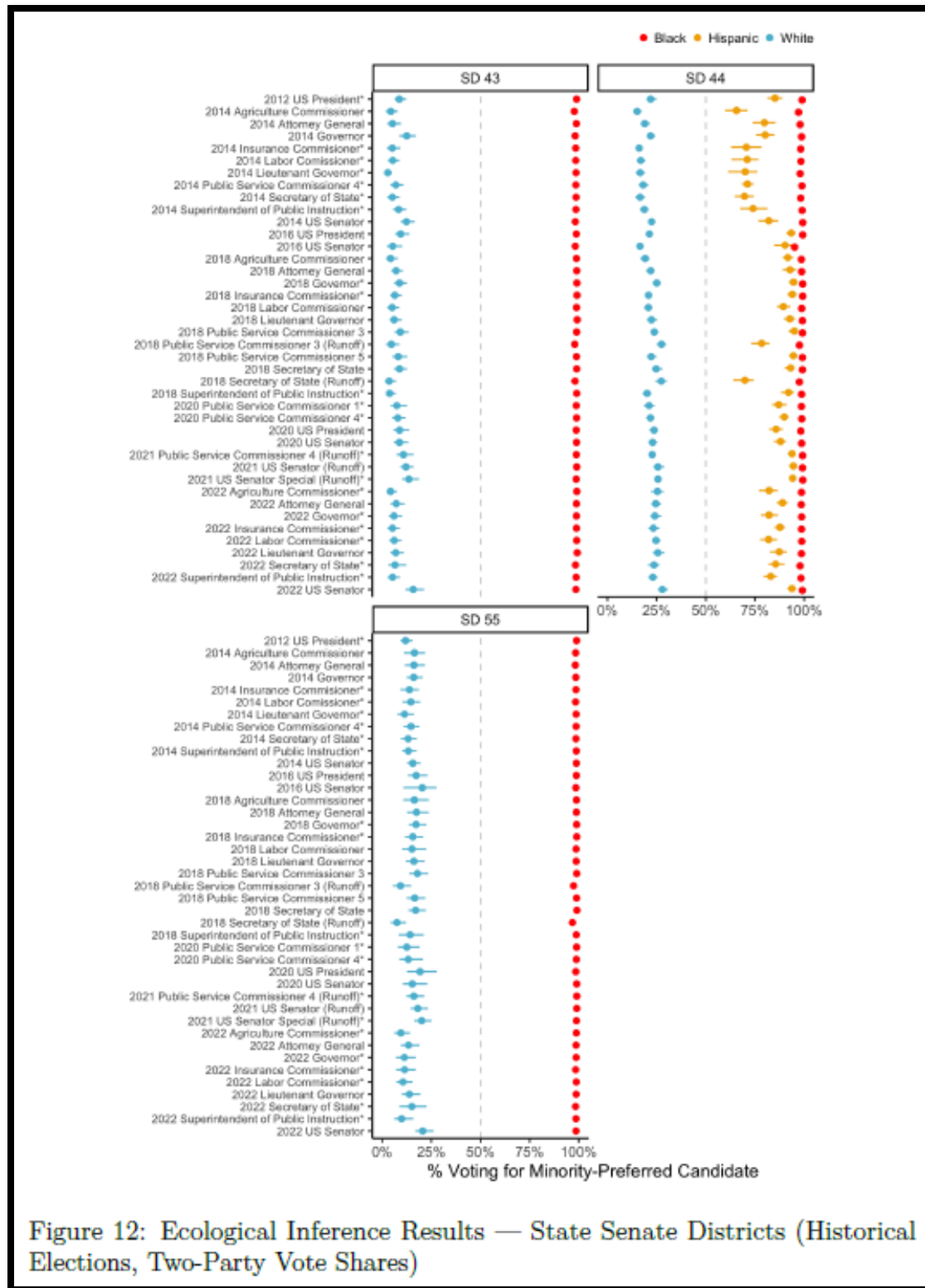


Figure 12: Ecological Inference Results — State Senate Districts (Historical Elections, Two-Party Vote Shares)

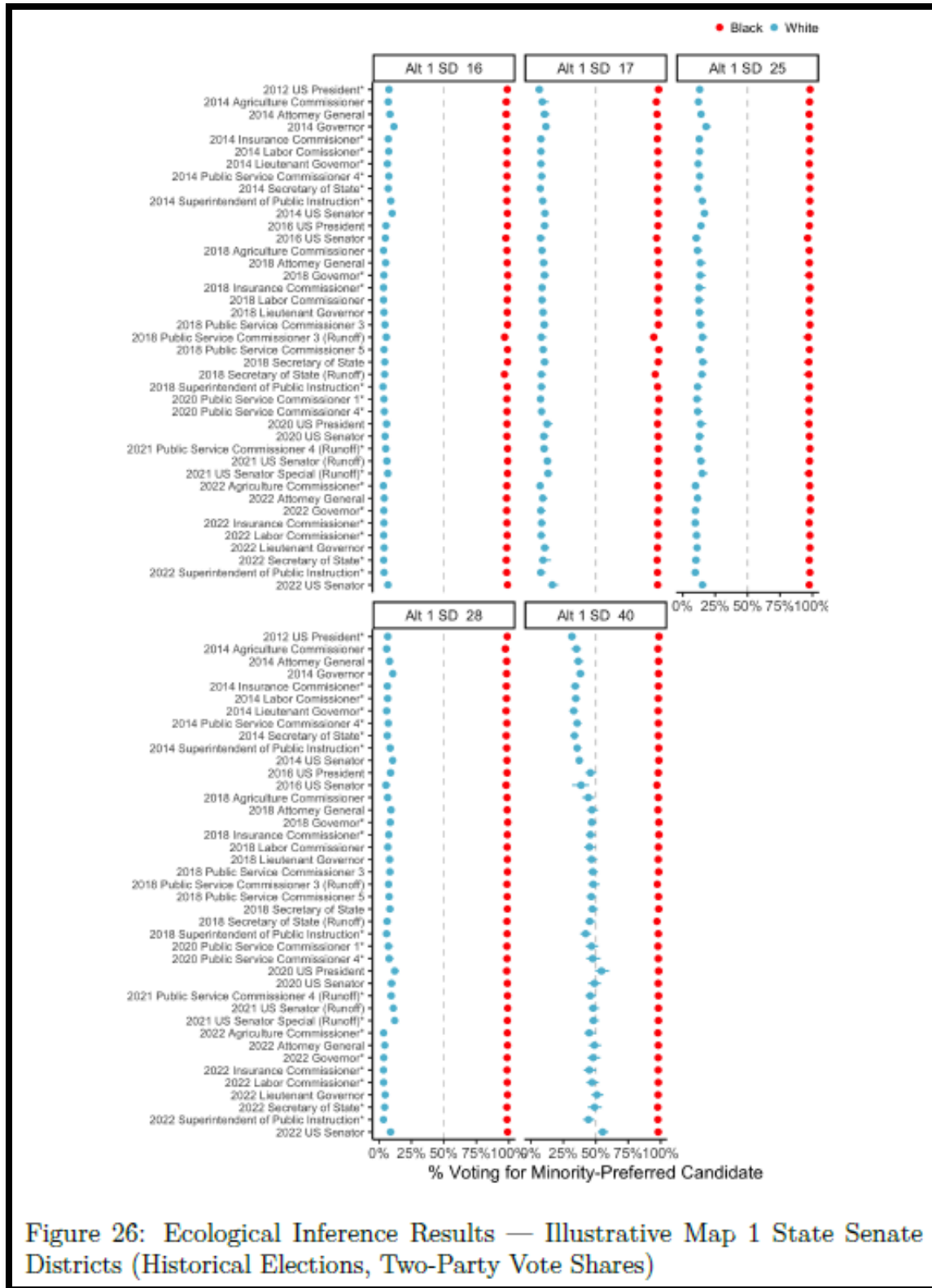
Id. at 32 (Figure 9); 33 (Figure 10); 34 (Figure 11); 35 (Figure 12).

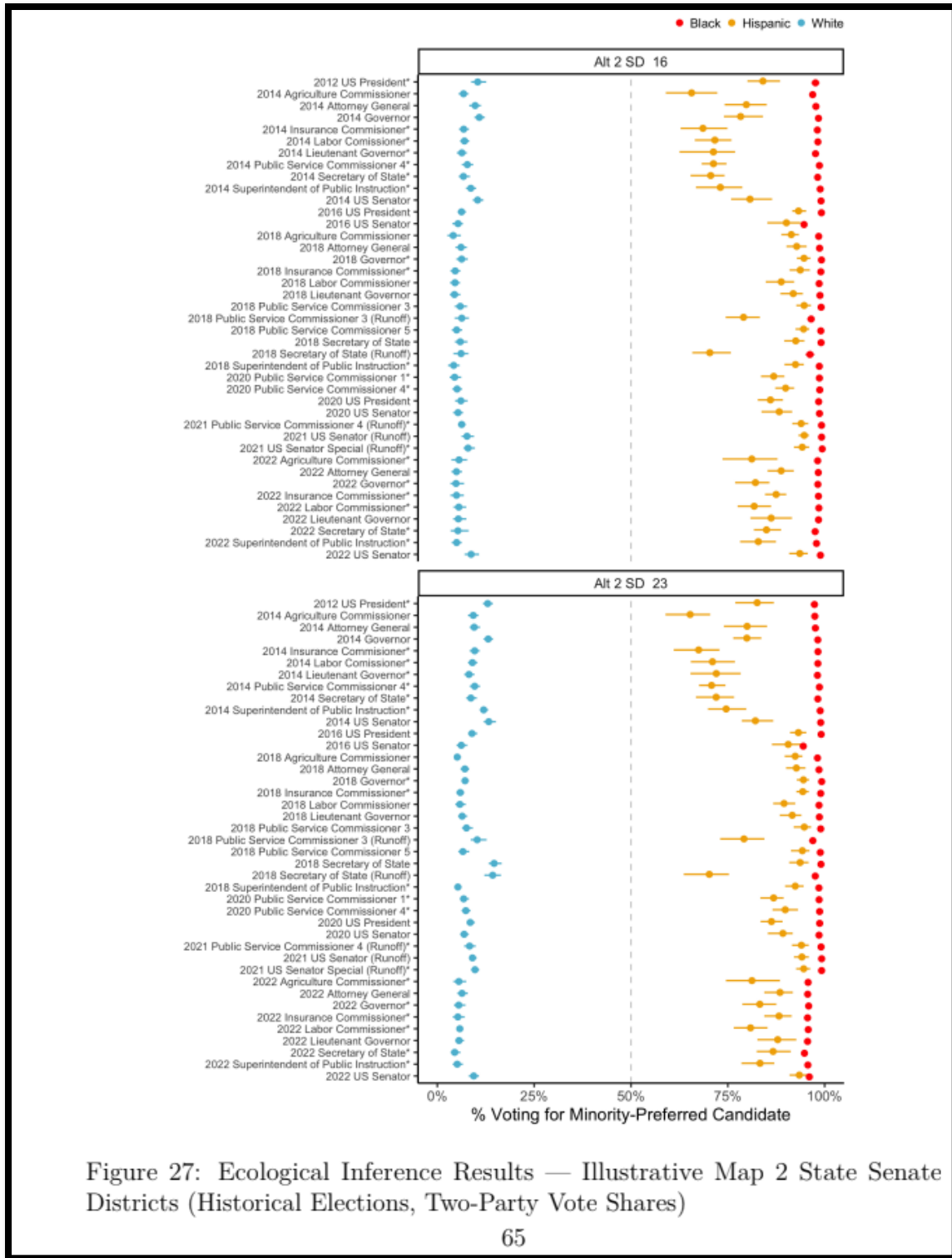
286. Dr. Schneer also analyzed whether there is Black cohesive voting in certain illustrative districts: SDs Alt 1 16, 17, 25, 28, and 40, and whether there was Black and Hispanic cohesive voting in SDs Alt 2, 16, and 23. *Id.* at 63.

287. Dr. Schneer concluded that there is “evidence of RPV between Black and White voters across all past statewide elections with a minority candidate running for” SDs Alt 1 16, 17, 25, and 28.” *Id.*

288. Dr. Schneer concluded that he “observe[s] evidence of RPV with Black and Hispanic voters supporting minority-[preferred] candidates” in SDs Alt 2 16 and 23. *Id.*

289. Dr. Schneer analyzed the results of his racially polarized voting analysis for SDs Alt 1 16, 17, 25, and 28 and for SDs Alt 2 16 and 23 in the figures below.





Id. at 64-65 (Figures 26-27).

5. State House District-Level Evidence of Black And Hispanic Cohesive Voting

290. Dr. Schneer analyzed whether there is Black cohesive voting in the following districts in the Enacted State House Map: HD 61, HD 64, HD 65, HD 66, HD 74, HD 78, HD 115, HD 116, HD 117, HD 140, HD 142, HD 143, HD 151, HD 154, HD 161, HD 163, HD 165, and HD 171. *Id.* at 36-37.

291. Dr. Schneer concluded that there is “RPV between Black and White voters in [Enacted State House Map districts] 61, 65, 74, 78, 115, 116, 117, 142, 143, 151, 154 and 171[.]” *Id.* at 37.

292. Dr. Schneer stated that “[Enacted State House Map districts] 61, 65, 74, 115, 142, 143, 151, 154 and 171 present clear evidence of RPV with Black voters selecting the minority candidates as their candidate of choice[.]” *Id.* at 36.

293. Dr. Schneer stated that “on balance the estimates show that Black voters supported minority candidates” in HD 78 and HD 117. *Id.* at 37.

294. Dr. Schneer also examined whether there was cohesion between Black and Hispanic voters in enacted HDs 161, 163, and 165. *Id.* at 36.

295. Dr. Schneer determined that HDs 161, 163, and 165 present “clear of evidence of RPV with Black and Hispanic voters cohering to select the minority candidates as their candidate of choice.” *Id.* at 37.

296. Dr. Schneer produced five figures that reflects the results of his racially polarized voting analysis for all of the Enacted State House Map districts which he analyzed (i.e., HD 61, HD 64, HD 65, HD 66, HD 74, HD 78, HD 115, HD 116, HD 117, HD 140, HD 142, HD 143, HD 151, HD 154, HD 161, HD 163, HD 165, and HD 171). *Id.* at 39 (Figure 14); 40 (Figure 15); 41 (Figure 16); 42 (Figure 17); 43 (Figure 18).

297. The five figures from Dr. Schneer's report reflecting this information are presented on the following five pages.

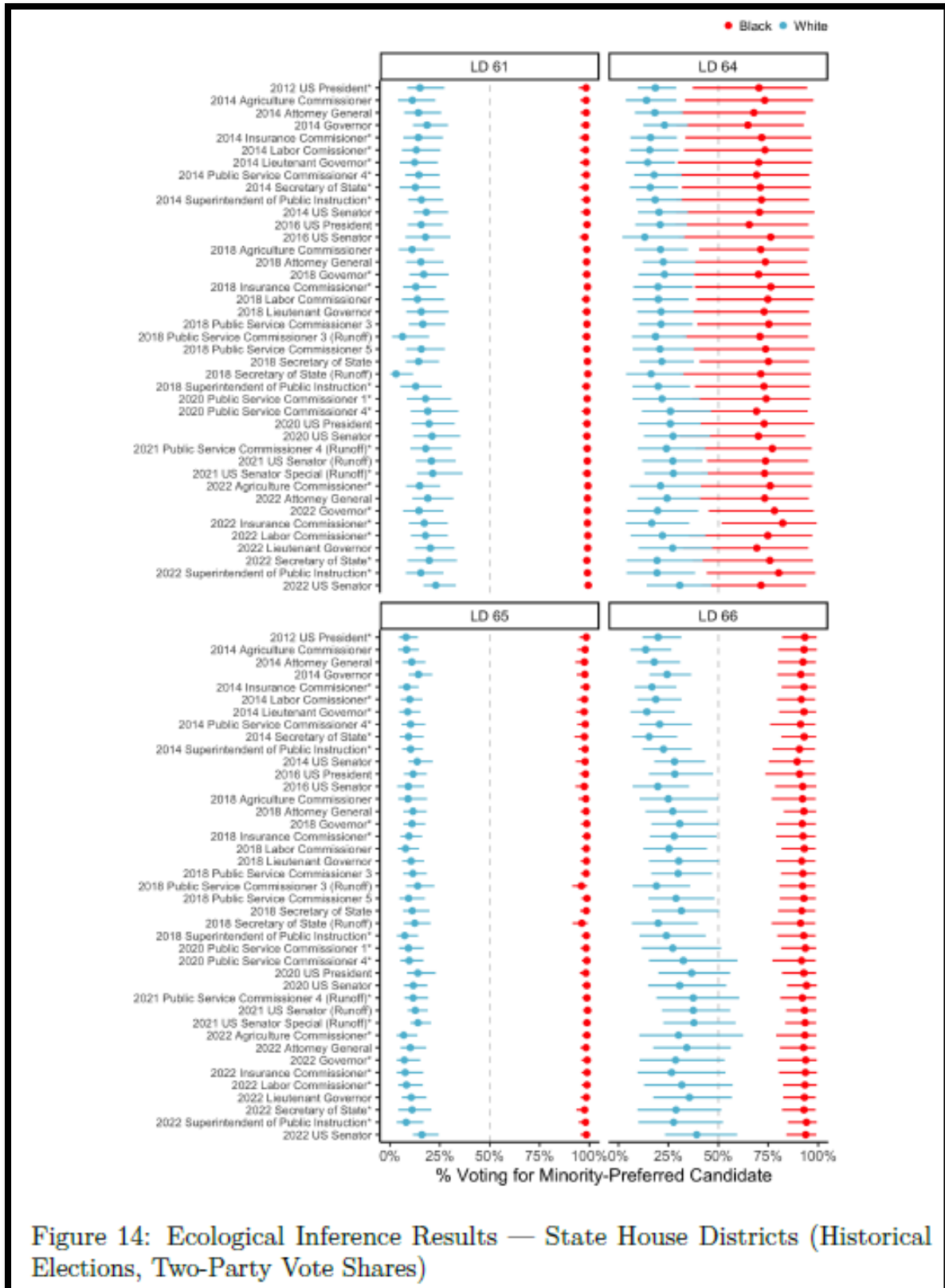


Figure 14: Ecological Inference Results — State House Districts (Historical Elections, Two-Party Vote Shares)

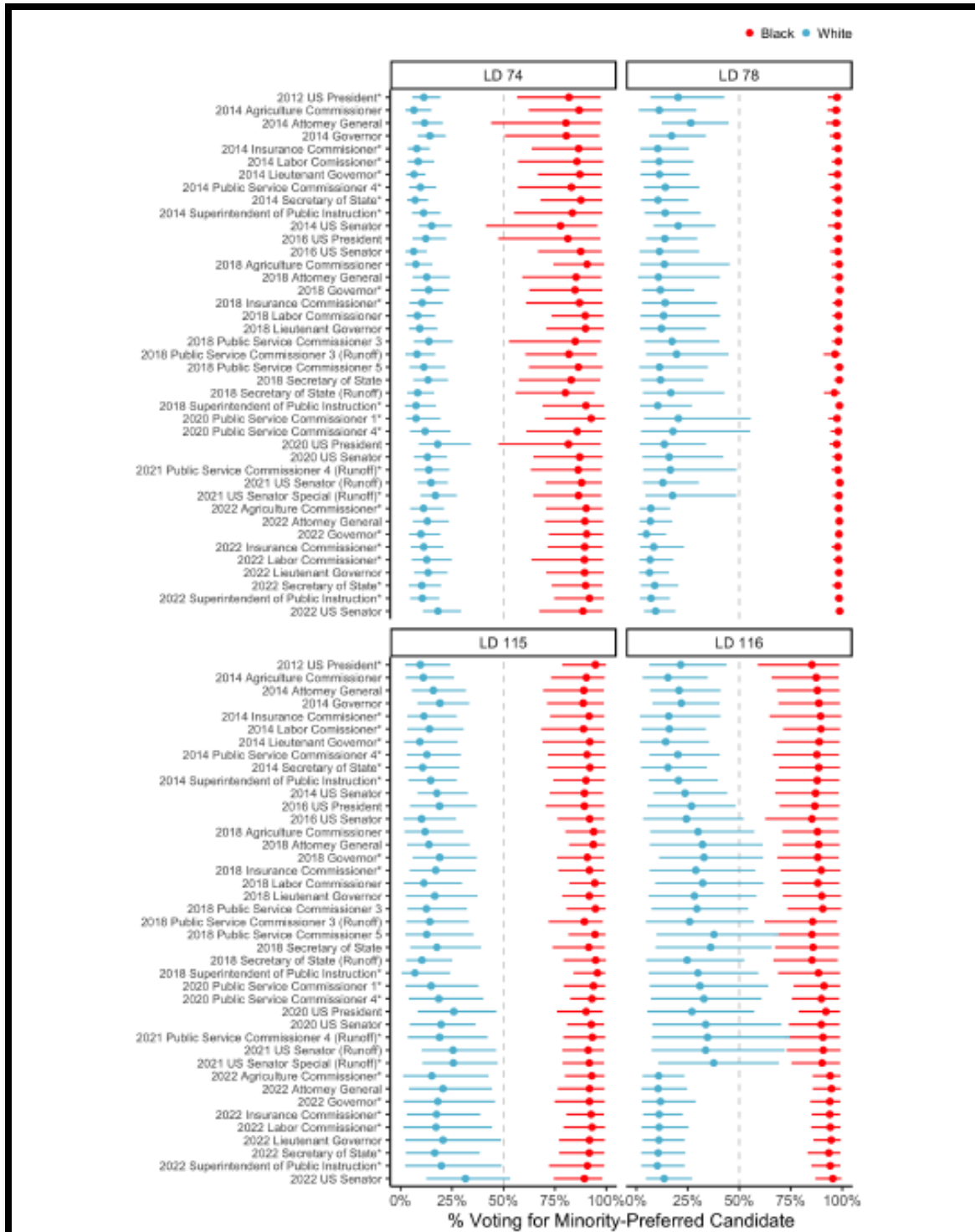
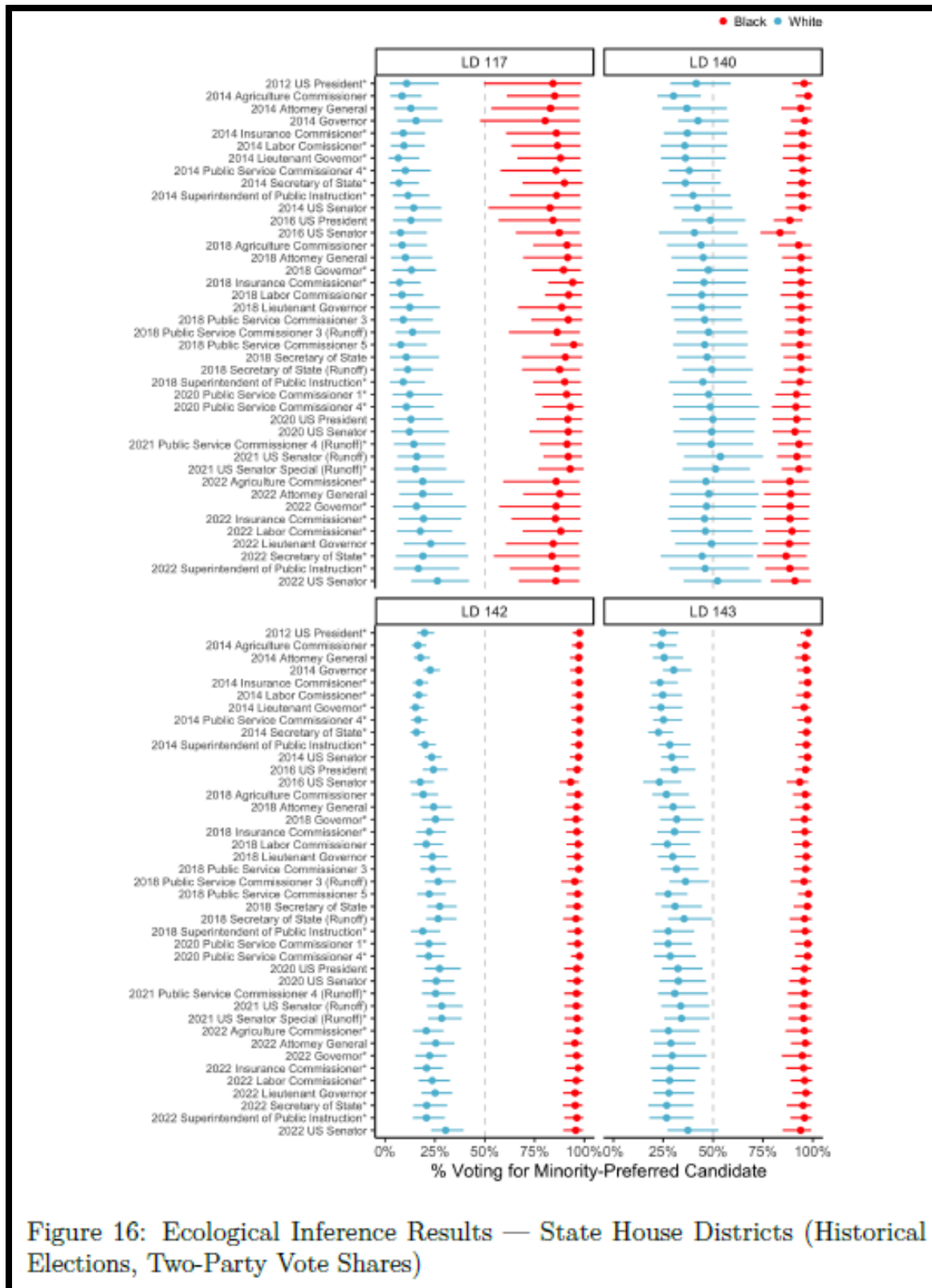


Figure 15: Ecological Inference Results — State House Districts (Historical Elections, Two-Party Vote Shares)



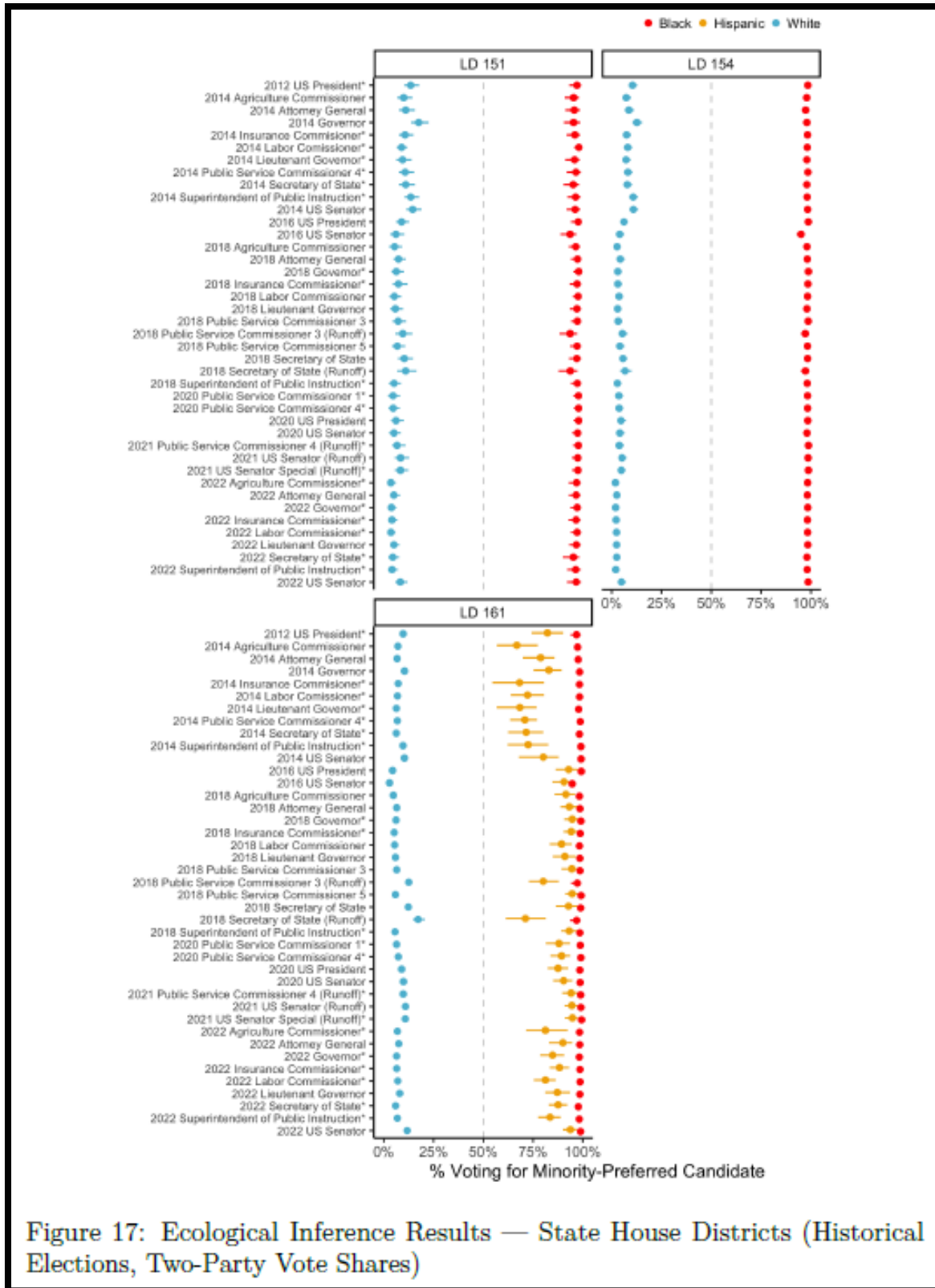
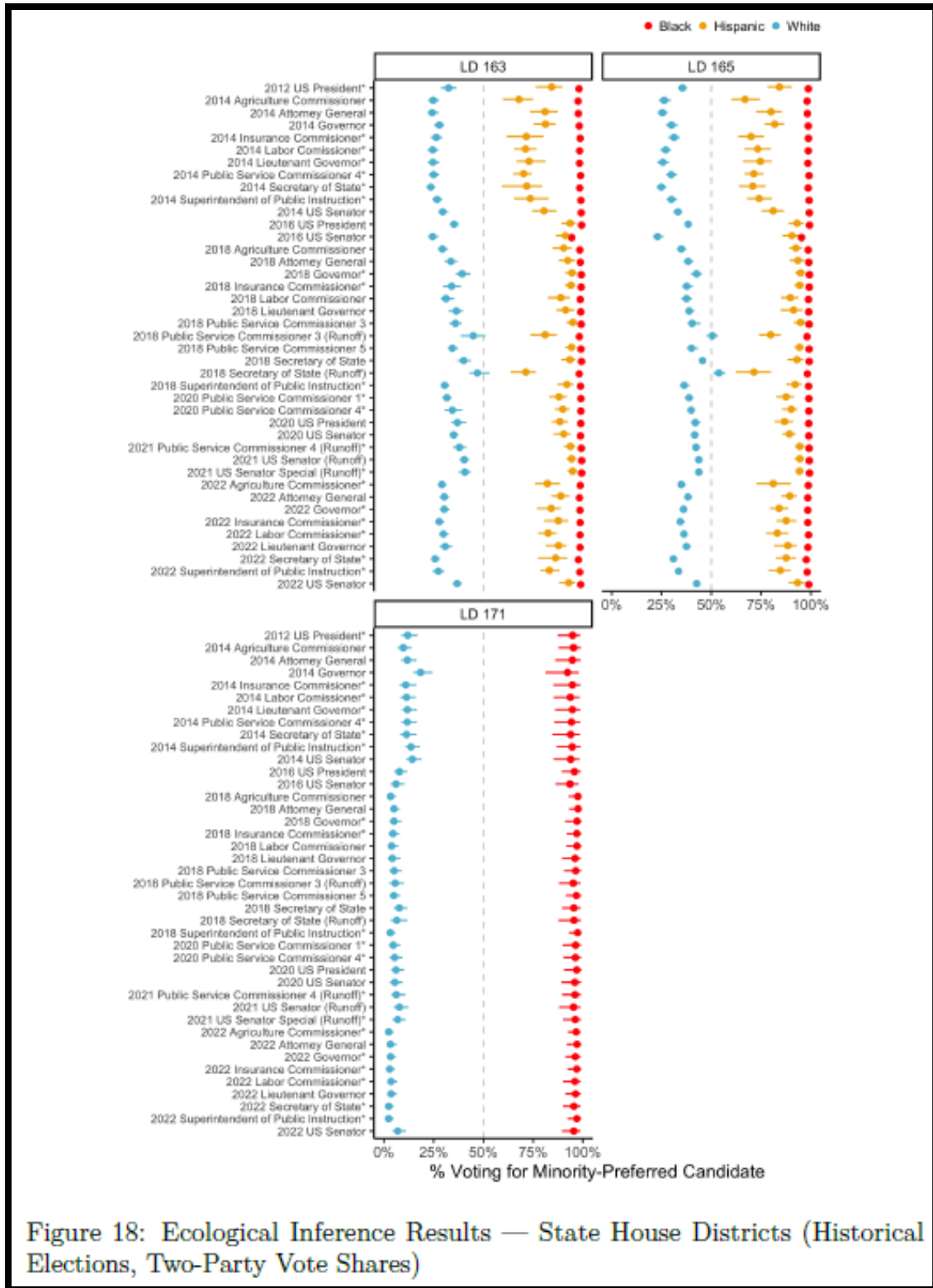


Figure 17: Ecological Inference Results — State House Districts (Historical Elections, Two-Party Vote Shares)



Id. at 39 (Figure 14); 40 (Figure 15); 41 (Figure 16); 42 (Figure 17); 43 (Figure 18).

298. Dr. Schneer also analyzed whether there is Black cohesive voting in HDs Alt 1 64, 74, 117, 144, 151, and 171. *Id.* at 66-67.

299. Dr. Schneer stated that there is “evidence of RPV between Black and White voters in all districts I examine[d].” *Id.* at 66.

300. Dr. Schneer also analyzed whether there is Black and Hispanic cohesive voting in HD Alt 1 161. *Id.* at 66-67.

301. Dr. Schneer stated that in HD Alt 1 161, there is “RPV with Black and Hispanic voters supporting minority candidates[.]” *Id.* at 66.

302. Dr. Schneer produced a figure that reflects the results of his RPV analysis.

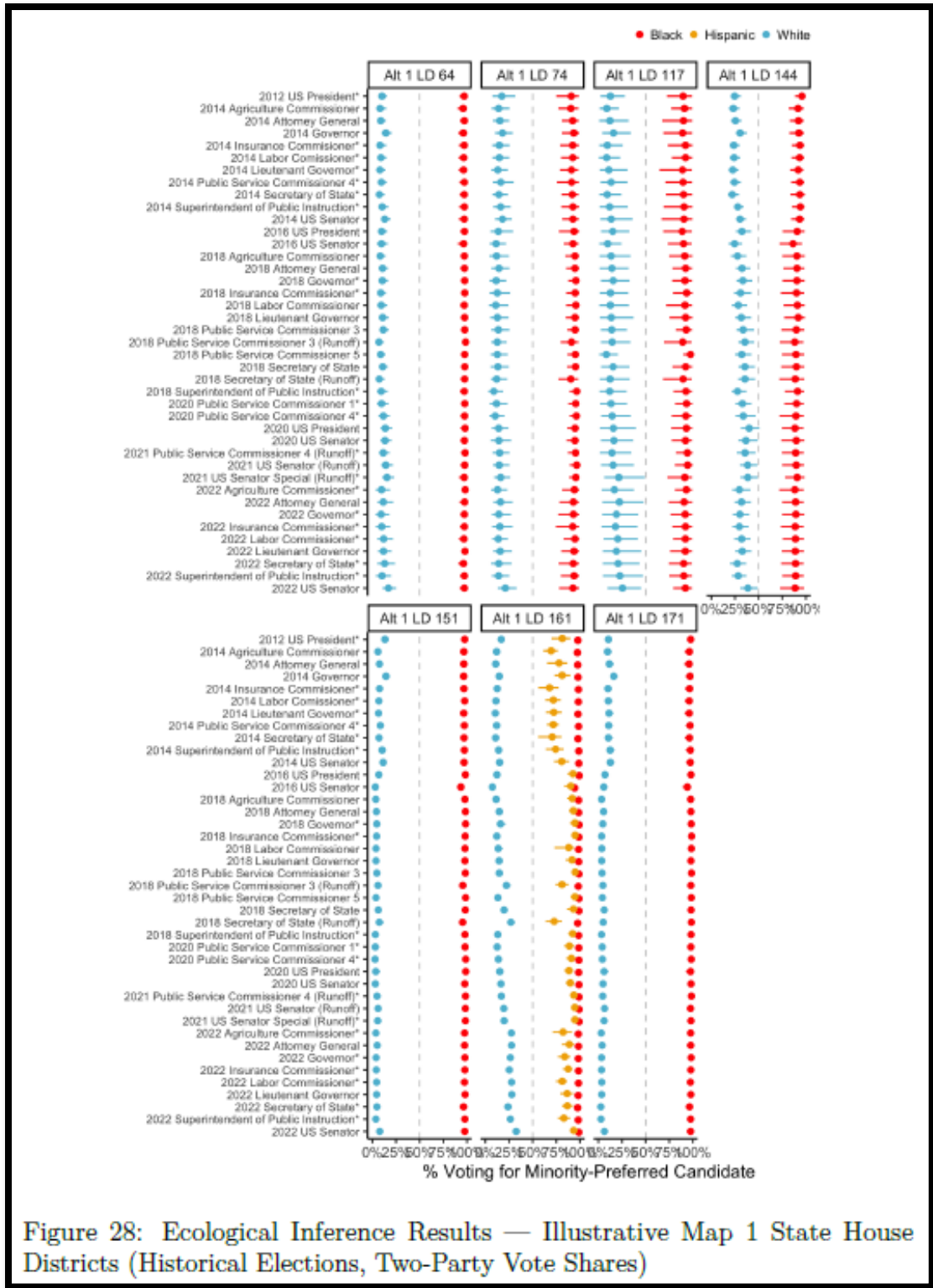


Figure 28: Ecological Inference Results — Illustrative Map 1 State House Districts (Historical Elections, Two-Party Vote Shares)

Id. at 68 (Figure 28).

B. *Gingles* 3: Majority White Voters Vote as a Bloc so as to Usually Defeat the Candidates of Choice of the Minority Group or Groups.

1. Statewide Evidence of White Cohesive Voting & that the White Voting Bloc Opposes the Minority Group-Preferred Candidate.

303. Dr. Schneer concluded that there is “clear evidence of racially polarized voting at the statewide level” and that “Hispanic and Black voters cohere around the same candidates of choice, and White voters oppose them, consistent with RPV.” *Id.* at 17.

304. Dr. Schneer opined that “primary elections can be of use in an RPV analysis, but in my view studying them is not necessary or sufficient for drawing conclusions about racially polarized voting in Georgia general elections.” *Id.* at 12.

305. Dr. Schneer opined that “if racially polarized voting occurs in a Georgia primary election it does not necessarily imply that racially polarized voting will occur in the general election, and vice versa.” *Id.*

306. Dr. Schneer opined that “it is sufficient in this case to examine behavior in general elections in order to determine the extent of racially polarized voting in Georgia general elections.” *Id.* at 12-13.

307. Dr. Schneer also produced a figure which reflects the results of his racially polarized analysis across statewide elections. *Id.* at 18 (Figure 1).

308. The figure reflects that White voters across all of the statewide elections vote cohesively for the same candidate of choice in opposition to the preferred candidate of choice for both Black and/or Black and Hispanic voters. *Id.*

309. The figure from Dr. Schneer's report reflecting this information is presented at paragraph 263 of this Statement of Facts.

2. Cluster-Level Evidence of White Cohesive Voting and that the White Voting Bloc Opposes the Black and the Hispanic Voting Bloc

310. Dr. Schneer analyzed whether there is White cohesive voting in SD Atlanta, SD Gwinnett, and SD East Black Belt in opposition to Black and/or Black and Hispanic voters' preferred candidates of choice in these clusters. *Id.* at 44.

311. Dr. Schneer concluded that “[a]cross [SD Atlanta, SD Gwinnet, and SD East Black Belt, there is] RPV between White and Black voters. For each cluster, Black voters cohesively support a candidate of choice and White voters oppose these candidates systematically. Furthermore, Hispanic voters tend to support the same candidates of choice as Black voters.” *Id.*

312. Dr. Schneer also produced a figure that reflects the results of his racially polarized voting analysis for SD Atlanta, SD Gwinnet, and SD East Black Belt. *Id.* at 47 (Figure 19).

313. The figure reflects that White voters in SD Atlanta, SD Gwinnett, and SD East Black Belt vote cohesively for the same candidate of choice in opposition to the preferred candidate of choice for Black voters, and for both Black and Hispanic voters in SD Gwinnet. *Id.*

314. The figure from Dr. Schneer's report reflecting this information is presented at paragraph 268 of this Statement of Facts.

315. Dr. Schneer also analyzed whether there is White cohesive voting in HD Atlanta, HD Southwest, HD East Black Belt, and HD Southeast in opposition to the Black and Hispanic voters' preferred candidates of choice in these clusters. *Id.* at 45.

316. Dr. Schneer concluded that there is "evidence of RPV between White and Black voters across all state House clusters I examine[d]. Black voters cohesively support a candidate of choice and White voters oppose this candidate. Based on my estimates, this is true in every cluster and for every statewide election that I examine." *Id.*

317. Dr. Schneer also produced a figure that reflects the results of his racially polarized voting analysis for HD Atlanta, HD Southwest, HD East Black Belt, and HD Southeast. *Id.* at 48 (Figure 20).

318. The figure reflects that White voters in HD Atlanta, HD Southwest, HD East Black Belt, and HD Southeast vote cohesively for the same candidate of choice in opposition to the preferred candidate for Black voters. *Id.*

319. The figure from Dr. Schneer’s report reflecting this information is presented at paragraph 271 of this Statement of Facts.

3. Congressional District-Level Evidence of White Cohesive Voting, that the White Voting Bloc Opposes the Black Voting Bloc, & that the White Voting Bloc Usually Defeats the Black Voting Bloc

320. Dr. Schneer concluded that there is “RPV between Black voters on the one hand and White voters on the other hand when pooling across all [of the districts in the Enacted Congressional Map] (e.g., statewide) as well as specifically for all [districts in the Enacted Congressional Map] other than CD 5.” *Id.* at 21.

321. Dr. Schneer stated that in all of the districts in the Enacted Congressional Map except for CD 5 “White voters opposed the candidate of choice of Black voters in every historical election” and “the confidence intervals on the estimates for White voters never overlap[ped] with the threshold for majority support.” *Id.* at 19-20.

322. Dr. Schneer stated that in CD 3 “[f]or Black voters, I never estimate[d] a minority-preferred candidate vote share below 92.8%” and “[f]or White voters, I never estimate[d] a minority-preferred candidate vote share above 12.2%.” *Id.* at 20.

323. Dr. Schneer stated that in CD 7 “Black voters coher[ed] around minority candidates (and other minority-preferred candidates) and . . . White voters oppos[ed] these candidates of choice.” *Id.*

324. Dr. Schneer stated that “[o]verall, CD 4 suggests to me cohesive behavior across Black voters in support of minority candidates (and other minority-preferred candidates) [while] White voters have reliably opposed the minority candidates of choice.” *Id.* at 21.

325. Dr. Schneer also produced five figures that reflect the results of his racially polarized voting analysis for all of the districts in the Enacted Congressional Map. *Id.* at 24 (Figure 3); 25 (Figure 4); 26 (Figure 5); 27 (Figure 6); 28 (Figure 7).

326. The figures reflect that White voters in each district in the Enacted Congressional Map except for CD 5 vote cohesively for the same candidate of choice in opposition to the preferred candidate of choice for Black voters. *Id.*

327. The five figures from Dr. Schneer’s report reflecting this information are presented at paragraph 278 of this Statement of Facts.

328. Dr. Schneer also “examine[d] the electoral performance of the enacted congressional districts.” *Id.* at 49-51.

329. Dr. Schneer “use[d] historical election data” to complete this analysis. *Id.* at 49.

330. Dr. Schneer concluded that “based on historical elections, minority voters have close to no chance of electing preferred candidates in [] nine congressional districts.” *Id.* at 51.

331. Dr. Schneer stated that in Enacted Congressional Districts “1, 3, 6, 8, 9, 10, 11, 12 and 14, White voters comprise a strong majority of the electorate. If conditions remain similar to historical elections, minority voters who preferred a minority candidate would not be able to elect that candidate” because “the minority-preferred candidate did not win in any of the historical elections I examine for these districts.” *Id.* at 50.

332. Dr. Schneer also prepared a table reflecting the result that in nine districts in the Enacted Congressional Map, historical evidence indicates that the Black preferred candidate would not receive at least 55% of the vote share, which Dr. Schneer opined is “a conventional cutoff used in voting rights litigation to indicate a safer district.” *Id.* at 52 (Table 2); *id.* at 49.

333. Dr. Duchin also completed a performance analysis of each of the districts in the Enacted Congressional Map. Duchin Rep. at 18 (Table 4).

334. To perform her performance analysis, Dr. Duchin analyzed historical primary and general election results and determined that a district is performing if

the relevant population’s preferred candidate of choice wins at least three out of four primary elections and at least five out of eight general elections Duchin Rep. at 17.

335. Dr. Duchin, consistent with Dr. Schneer, determined that in nine of the districts in the Enacted Congressional Map—CD 1, CD 3, CD 6, CD 8, CD 9, CD 10, CD 11, CD 12, and CD 14—the Black VAP does not have an opportunity to defeat the White VAP. *Id.* at 18 (Table 4).

336. Dr. Schneer analyzed whether there is White cohesive voting in each district that Dr. Duchin drew in the Demonstrative Congressional Map in opposition to the preferred candidate of choice for Black voters. Schneer Rep. at 57.

337. Dr. Schneer concluded that except for Demonstrative CD 4 “there is essentially universal evidence of RPV between Black and White voters. In these districts, when a minority candidate runs Black voters support them and White voters oppose this candidate. In elections between no minority candidates or two minority candidates, Black voters support the minority-preferred candidate and White voters oppose them.” *Id.*

338. Dr. Schneer also produced a figure that reflects the results of his racially polarized voting analysis for Demonstrative CD 3. *Id.* at 58 (Figure 21).

339. The figure reflects that White voters in Demonstrative CD 3 vote cohesively for the same candidate of choice in opposition to the preferred candidate of choice for Black voters. *Id.*

340. The figure from Dr. Schneer's report reflecting this information is presented at paragraph 280 of this Statement of Facts.

4. State Senate District-Level Evidence of White Cohesive Voting, that the White Voting Bloc Opposes the Black Voting Bloc, & that the White Voting Bloc Usually Defeats the Black Voting Bloc

341. Dr. Schneer analyzed whether this is White cohesive voting in opposition to the preferred candidate of choice for Black voters in the following districts in the Enacted State Senate Map: SD 9, SD 16, SD 17, SD 22, SD 23, SD 25, SD 26, SD 28, SD 34, SD 35, SD 40, SD 41, SD 43, SD 44, and SD 55. *Id.* at 29-30.

342. Dr. Schneer concluded that apart from SD 41 and potentially also from SD 40, "there is evidence of racially polarized voting behavior between Black and White voters in every other State Senate district I analyzed. Black voters clearly supported the minority-preferred candidate in every election under study, including those elections with a minority candidate running. White voters opposed their candidate of choice." *Id.* at 30.

343. Dr. Schneer stated that “[Enacted State Senate Map districts] 16, 22, 23, 25, 26, and 44 exhibit clear evidence of RPV with Black and Hispanic voters cohering around minority candidates and White voters opposing them in ever historical election with a minority candidate that I examine[d].” *Id.* at 29-30.

344. Dr. Schneer stated that “[Enacted State Senate Map districts] 9, 17, 28, 34, 43 and 55 exhibit evidence of RPV between Black and White voters, again with Black voters cohering around the minority candidate and White voters opposing this candidate.” *Id.* at 30.

345. Dr. Schneer also produced four figures that reflect the results of his racially polarized voting analysis for all of the Enacted State Senate Map districts which he analyzed (i.e., SD 9, SD 16, SD 17, SD 22, SD 23, SD 25, SD 26, SD 28, SD 34, SD 35, SD 40, SD 41, SD 43, SD 44, and SD 55). *Id.* at 32 (Figure 9); 33 (Figure 10); 34 (Figure 11); 35 (Figure 12).

346. The figures reflect that White voters in each district analyzed except for SD 41 and potentially also SD 40 vote cohesively for the same candidate of choice and in opposition to the preferred candidate of choice for Black voters. *Id.* at 32 (Figure 9); 33 (Figure 10); 34 (Figure 11); 35 (Figure 12).

347. The four figures from Dr. Schneer’s report reflecting this information are presented at paragraph 285 of this Statement of Facts.

348. Dr. Schneer also examined the electoral performance of the focus enacted state Senate districts. *Id.* at 49.

349. Dr. Schneer “use[d] historical election data” to complete this analysis. *Id.*

350. Dr. Schneer concluded that “[b]ased on historical elections, the candidate preferred by minority voters would not have won in any election I examine between 2012 and 2022 in SDs 16, 17, 23, 25 and 28.” *Id.* at 53.

351. Dr. Schneer also prepared a table reflecting the result that in SD 16, SD 17, SD 23, SD 25, and SD 28, which shows that in each of these districts historical evidence indicates that the Black preferred candidate would not receive at least 55% of the vote share, which is a conventional cutoff used in voting rights litigation to indicate a safer district. *Id.* at 56; (Table 3).

352. Dr. Duchin also completed a performance analysis of SD 16, SD 17, SD 23, SD 25, and SD 28. Duchin Rep. at 48-49, 51.

353. Dr. Duchin, consistent with Dr. Schneer, determined that SD 16, SD 17, SD 23, SD 25, and SD 28 do not provide the Black-preferred candidate an opportunity to defeat the White majority bloc-preferred candidate. *Id.*

5. State House District-Level Evidence of White Cohesive Voting and that the White Voters Vote as a Bloc So as to Usually Defeat Voting Bloc Opposes the Black Voting Bloc

354. Dr. Schneer analyzed whether this is White cohesive voting in opposition to the preferred candidate of choice for Black voters in the following districts in the Enacted State House Map: HD 61, HD 64, HD 65, HD 66, HD 74, HD 78, HD 115, HD 116, HD 117, HD 140, HD 142, HD 143, HD 144, HD 151, HD 154, HD 161, HD 163, HD 165, and HD 171. Schneer Rep. at 36-37; Canter Decl. ¶ 27 (Deposition of Benjamin Schneer (“Schneer Dep.”) 91:01-91:22 (HD 144)).

355. Dr. Schneer concluded that there is “RPV between Black and White voters in [Enacted State House Map districts] 61, 65, 74, 78, 115, 116, 117, 142, 143, 151, 154 and 171[.]” *Id.* at 37.

356. Dr. Schneer stated that “[Enacted State House Map districts] 61, 65, 74, 115, 142, 143, 151, 154 and 171 present clear evidence of RPV with Black voters selecting the minority candidates as their candidate of choice, and White voters opposing these candidates in every historical election” *Id.* at 36-37.

357. Dr. Schneer stated that “on balance the estimates show that Black voters supported minority candidates” in HD 78 and HD 117 and these same minority

candidates “were opposed by White voters in a vast majority of historical elections.”

Id. at 37.

358. Dr. Schmeer also produced five figures that reflect the results of his racially polarized voting analysis for all of the Enacted State House Map districts which he analyzed (i.e., HD 61, HD 64, HD 65, HD 66, HD 74, HD 78, HD 115, HD 116, HD 117, HD 140, HD 142, HD 143, HD 151, HD 154, HD 161, HD 163, HD 165, and HD 171). *Id.* at 39 (Figure 14); 40 (Figure 15); 41 (Figure 16); 42 (Figure 17); 43 (Figure 18).

359. The figures reflect that White voters in HD 61, HD 65, HD 74, HD 78, HD 115, HD 116, HD 117, HD 142, HD 143, HD 151, HD 154, and HD 171 vote cohesively for the same candidate of choice in opposition to the preferred candidate of choice for Black voters. *Id.* at 39 (Figure 14); 40 (Figure 15); 41 (Figure 16); 42 (Figure 17); 43 (Figure 18).

360. The five figures from Dr. Schmeer’s report reflecting this information are presented at paragraph 297 of this Statement of Facts

361. Dr. Schmeer also examined the electoral performance of the focus enacted state House districts. *Id.* at 49.

362. Dr. Schmeer “use[d] historical election data” to complete this analysis. *Id.*

363. Dr. Schneer concluded that “[b]ased on historical elections, the candidate preferred by minority voters would not have won in any election I examine between 2012 and 2022 in [Enacted State House Map districts] 64, 74, 161 and 171.” *See* Canter Decl. ¶ 29 (Benjamin Schneer Notice of Errata at 1-2 (March 31, 2023)).

364. Dr. Schneer also “looked at. . . the performance of Legislative District 144,” and determined that by “essentially running the exact same type of performance analysis that I did for all other districts, this was a district where in no past elections that I examined were minority voters able to elect their candidates of choice.” Schneer Dep. 91:11-91:18.

365. Dr. Schneer prepared a table reflecting the result that in HD 64, HD 74, HD 117, HD 161, and HD 171, which shows that in each of these districts historical evidence indicates that the Black preferred candidate would not receive at least 55% of the vote share, which is a conventional cutoff used in voting rights litigation to indicate a safer district. Schneer Rep. at 56 (Table 4).

366. Dr. Duchin also completed a performance analysis of HD 64, HD 74, HD 117, HD 161, and HD 171. Duchin Rep. at 55, 63, 66.

367. Dr. Duchin, consistent with Dr. Schneer, determined that SD 16, SD 17, SD 23, SD 25, and SD 28 do not provide the Black-preferred candidate with an opportunity to defeat the White majority-bloc preferred candidate. *Id.*

C. The RPV Expert Retained By Defendants Does Not Dispute That Black—and Sometimes Black and Hispanic—Voters Support the Same Candidates of Choice With Extremely High Levels of Cohesion.

368. Defendants’ RPV expert in this case, Dr. John Alford, testified that Dr. Scheer’s “evidentiary basis” and “empirical analysis” with regards to his racially polarized voting report is “perfectly adequate.” Alford Dep. at 74:15-74:17.

369. He stated that he is “fine with reaching conclusions” based on Dr. Schneer’s analysis. *Id.* at 74:17-74:18.

370. Dr. Alford does not dispute any of Dr. Schneer’s findings about the levels of voting cohesion that Black voters demonstrate in Georgia: His only opinion in this case is Dr. Schneer did not rule out that partisanship, not race, is the cause of that cohesion. *Id.* at 68:15-68:24.

371. Dr. Alford testified that in Georgia “black voters vote [in a] highly cohesion fashion for democratic candidates” *Id.* at 110:18-111:08.

D. The Legislature Recognized the Existence of RPV in Georgia During the Redistricting Process.

372. Chair Kennedy recognized that that “process” the Senate Redistricting Committee undertook “recognized” the “principle” of RPV in Georgia. Kennedy Dep. 126:22-127:21.

Dated: April 26, 2023

Respectfully submitted,

By: /s/ Kurt Kastorf

Kurt Kastorf

Georgia Bar No. 315315

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LOCAL RULE 7.1(D) CERTIFICATION OF COMPLIANCE

I certify that this pleading has been prepared with Times New Roman font, 14 point, as approved by the Court in L.R. 5.1(C), N.D. Ga.

/s/ Kurt Kastorf

Kurt Kastorf

Attorney for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GEORGIA STATE CONFERENCE OF THE)
NAACP, et al.)

Plaintiffs,)

v.)

STATE OF GEORGIA, et al.)

Defendants.)

COMMON CAUSE, et al.,)

Plaintiffs,)

v.)

BRAD RAFFENSPERGER)

Defendant.)

Case No. 1:21-CV-5338-
ELB-SCJ-SDG

Case No. 1:22-CV-00090-
ELB-SCJ-SDG

**DECLARATION OF CRINESHA B. BERRY IN SUPPORT OF PLAINTIFFS’
RESPONSE TO DEFENDANTS’ MOTION FOR
SUMMARY JUDGMENT**

I, Crinesha B. Berry, declare as follows:

1. I am employed as counsel at Crowell & Moring, LLP, counsel of record for the GA NAACP Plaintiffs. I am an attorney, admitted to the New York, Michigan, and District of Columbia Bars and have been admitted *pro hac vice* to appear before this Court. I submit this Declaration in support of the Georgia State Conference of the NAACP, GALEO Community Development Fund, and Georgia Coalition for the People’s Agenda (collectively “Plaintiffs”) Response to Defendants’ Motion for Summary Judgment. I have personal knowledge of the facts set forth below, and if called to testify, I could and would testify competently to the below.

2. On August 5, 2022, Defendants served Interrogatories on Plaintiffs, including Interrogatory Number 6, which asked: “Identify all ‘members’ of the Organizational Plaintiffs that Organizational Plaintiffs plan to rely on for purposes of establishing associational standing.” A true and correct copy of the request is attached as Exhibit 1.

3. On September 6, 2022, each Plaintiff served a verified response to Interrogatory Number 6. The response included objections by the Plaintiff

organizations about identifying its members by name in response to the Interrogatory based upon the associational privilege and other objections, but each Plaintiff did confirm they would “offer evidence that it has members residing in certain of the challenged districts at issue in this litigation.” True and correct copies of these responses are attached as Exhibits 2-4.

4. On September 13, 2022, Defendants sent a letter objecting to certain discovery responses, including Interrogatory No. 6. A true and correct copy of this letter is attached as Exhibit 5.

5. The parties then embarked on a meet and confer process, which included two calls and a chain of emails. A true and correct copy of this email chain is attached as Exhibit 6.

6. I participated in a call with Defendants’ counsel, Bryan Tyson and Bryan Jacoutot, on September 30, 2022. During the meet and confer, the Defendants agreed to resolve the dispute concerning Interrogatory No. 6 by allowing each Plaintiff organization to supplement their previous responses by identifying only one member for each Plaintiff in response to Interrogatory No. 6. During this call, there was no discussion on either side regarding plaintiffs naming one member per district. Later that day, I sent a follow-up email that stated in part: “I’m writing to confirm and follow up on a few items we discussed. . . . With

respect to Interrogatory 6, you requested that each Plaintiffs identify one member. Please let us know whether the State will waive any challenge to associational standing if Plaintiffs comply with this request.” Ex. 6 at 6.

7. On October 7, 2022, Bryan Tyson responded, and wrote: “This correctly states our conversation.” He then wrote: “On the associational standing issue, we cannot waive any challenge to associational standing if a member is identified, because there are other requirements that still must be met. But identifying the member will resolve the dispute regarding Interrogatory No. 6.” Ex. 6 at 5.

8. On October 14, 2022, I responded in part: “As we evaluate your request we would like to further understand your position. Can you confirm that if each Plaintiff identifies one member in response to Interrogatory No. 6, you will confine your associational standing challenge to whether each of these identified members would have standing to sue as an individual?” Ex. 6 at 5.

9. I did not receive a response before November 8, 2022. On that day I sent a follow-up email, which in part stated: “Please also let us know if each Plaintiff identifies one member, the State’s challenges to associational standing would be limited to the identified members.” Ex. 6 at 4.

10. On November 9, 2022, Bryan Tyson responded: “On the associational standing issue, if Plaintiffs are willing to commit to identifying a member or members and will not identify other members through which they will pursue associational standing, we can keep our inquiries limited to the identified individuals. But we will need a firm commitment that Plaintiffs will not later assert other members. If not, we will need to test associational standing through discovery requests related to a broader group of organizational members.” Ex. 6 at 3. He also offered to discuss over the phone or via Zoom.

11. On November 14, 2022, I accepted Mr. Tyson’s offer for a call. This call was held on November 18, 2022. During this call, there was no discussion on either side regarding plaintiffs naming one member per district. During the conversation, I stated that Plaintiffs could not commit to not later asserting other members in case an issue arose with the named member. I offered to allow the State to take out of time discovery if a substitution became necessary. The State agreed that this would resolve its concern.

12. On November 20, 2022, I wrote to Mr. Tyson: “I’m writing to confirm the outcome of our meet and confer on Friday. The conclusion was that for any Plaintiff that identifies one member, the State’s challenge to that Plaintiff’s associational standing will be limited to the identified member’s individual

standing. If circumstances arise such that a Plaintiff identifies a different member for associational standing purposes, the State may take additional discovery regarding that member's individual standing notwithstanding the expiration of discovery-related deadlines. Please confirm that you agree." Ex. 6 at 1.

13. On November 21, 2022, Mr. Tyson wrote to me: "Thanks for this email – yes, this confirms our agreement and the meet and confer." Ex. 6 at 1.

14. In response to Interrogatory No. 6 and pursuant to the parties' agreement and communications, Plaintiffs supplemented their discovery responses on November 23, 2022, and named one member per Plaintiff. True and correct copies of these responses are attached as Exhibits 7-9.¹

15. Since that time, Defendants did not object to Plaintiffs' supplemental responses to Interrogatory No. 6, never inquired whether the Plaintiffs had additional members residing in the relevant challenged districts during their depositions, and never notified Plaintiffs' counsel that they had any concerns about the Plaintiffs' associational standing until they raised the issue in their motion for summary judgment on March 27, 2023.

¹ The names have been redacted from the attachments but were nonetheless provided to counsel for the Defendants.

16. In light of this stipulation, the Plaintiffs did not identify additional members by name in Response to Interrogatory No. 6. However, Plaintiffs do have members in the relevant challenged districts sufficient to establish associational standing. If ordered to do so, Plaintiffs will identify members in the relevant challenged and illustrative districts to the Court for *in camera* review, pursuant to a reasonable protective order, or other orders of the Court. *See* Declaration of Gerald Griggs; Declaration of Gerardo Gonzalez; Declaration of Helen Butler.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed at Minneapolis, Minnesota on this 26th day of April, 2023.

Crinesha B. Berry

Crinesha B. Berry

Exhibit 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GEORGIA STATE CONFERENCE OF THE)
NAACP, et al.)

Plaintiffs,

v.)

STATE OF GEORGIA, et al.)

Defendants.

_____)
COMMON CAUSE, et al.,)

Plaintiffs,

v.)

BRAD RAFFENSPERGER)

Defendant.

) Case No. 1:21-CV-5338-
) ELB-SCJ-SDG

) Case No. 1:22-CV-00090-
) ELB-SCJ-SDG

**DEFENDANTS’ FIRST SET OF INTERROGATORIES,
REQUESTS FOR PRODUCTION OF DOCUMENTS,
AND REQUESTS FOR ADMISSION**

Defendants the State of Georgia; Brian Kemp, in his official capacity as the Governor of the State of Georgia; and Brad Raffensperger, in his official capacity as Georgia Secretary of State (collectively, “Defendants”), hereby requests that Plaintiffs Common Cause; the League of Women Voters of Georgia; Georgia State Conference of the NAACP; Georgia Coalition for the People’s Agenda, Inc.; and GALEO Latino Community Development Fund, Inc.

4. Explain in detail the basis for the claim that each Organizational Plaintiff has been and will be required to divert resources because of the Redistricting Plans. *See, e.g.*, Common Cause Complaint, ¶¶ 16, 21; Ga. NAACP Complaint, ¶¶ 41, 51, 58 . In responding to this Interrogatory, please include a list of each activity from which each Organizational Plaintiff has diverted resources or will divert resources from because of the Redistricting Plans and how its organizational mission will be frustrated by the Redistricting Plans. *See, e.g.*, Common Cause Complaint, ¶¶ 14, 18; Ga. NAACP Complaint, ¶¶ 33, 45, 52.

5. Identify each and every election-related activity that each Organizational Plaintiff has discontinued since the adoption of the Redistricting Plans, including an explanation of why the Organizational Plaintiff can no longer continue that activity, the costs associated with continuing that activity, and all alternatives that each Organizational Plaintiff considered in order to continue that election-related activity.

6. Identify all “members” of the Organizational Plaintiffs that Organizational Plaintiffs plan to rely on for purposes of establishing associational standing.

7. Explain how individuals or organizations, if any, become members of the Organizational Plaintiffs and list all requirements of membership for each.

Exhibit 2

**IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF GEORGIA ATLANTA DIVISION**

GEORGIA STATE CONFERENCE OF THE)	
NAACP, et al.)	
)	
<i>Plaintiffs,</i>	)	Case No. 1:21-CV-5338-
	)	ELB-SCJ-SDG
v.)	
)	
STATE OF GEORGIA, et al.)	
)	
<i>Defendants.</i>)	
_____	)	Case No. 1:22-CV-00090-
COMMON CAUSE, et al.,	)	ELB-SCJ-SDG
)	
<i>Plaintiffs,</i>)	
v.)	
)	
BRAD RAFFENSPERGER)	
)	
<i>Defendant.</i>)	

GEORGIA COALITION FOR THE PEOPLE’S AGENDA, INC.
OBJECTIONS AND RESPONSES TO DEFENDANTS’ FIRST SET OF
INTERROGATORIES, REQUESTS FOR PRODUCTION OF
DOCUMENTS, AND REQUESTS FOR ADMISSION

Pursuant to Rules 33, 34, and 36 of the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the Northern District of Georgia, Plaintiff, Georgia Coalition for the People’s Agenda, Inc (“GCPA”) as an organization (“Plaintiff”), through its undersigned counsel, hereby responds and objects to the First Sets of Interrogatories, Requests for Production of Documents,

INTERROGATORY NO. 6:

Identify all “members” of the Organizational Plaintiffs that Organizational Plaintiffs plan to rely on for purposes of establishing associational standing.

OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 6:

Plaintiff incorporates herein by reference its Objections to Instructions and Definitions above as though fully set forth herein. Plaintiff further objects to this Interrogatory on the grounds that it is overbroad and unduly burdensome. Plaintiff objects to this Request on the grounds that this request is vague and ambiguous, including with respect to the meaning of the terms “Identify,” and “establishing.” Plaintiff further objects to this Request because it is premature and discovery is ongoing. Plaintiff also objects that this Request calls for information protected by attorney-client privilege, attorney work product doctrine and/or other applicable privilege. Plaintiff also objects to this Request on the ground that it unduly burdens its associational rights under the First Amendment and the rights of its members and donors. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 462 (1958); *NAACP v. Button*, 371 U.S. 415, 429 (1963); *Buckley v. Valeo*, 424 U.S. 1, 64–68 (1976); *Perry v. Schwarzenegger*, 591 F.3d 1126, 1142 & fn. 9 (9th Cir. 2009); *AFL-CIO v. FEC*, 333 F.3d 168, 175 (D.C. Cir. 2003); *Black Panther Party v. Smith*, 661 F.2d 1243, 1264 (D.C. Cir. 1981), *cert. granted and vacated as moot*, 458 U.S. 1118 (1982); *Intl. Socy. for Krishna Consciousness, Inc. v. Lee*, 75 CIV. 5388 (MJL), 1985 WL 315, at *8

(S.D.N.Y. Feb. 28, 1985).

Without waiving any of these objections, Plaintiff expects to offer evidence that it has members residing in certain of the challenged districts at issue in this litigation.

INTERROGATORY NO. 7:

Explain how individuals or organizations, if any, become members of the Organizational Plaintiffs and list all requirements of membership for each.

OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 7:

Plaintiff incorporates herein by reference its Objections to Instructions and Definitions above as though fully set forth herein. Plaintiff further objects to this Interrogatory on the grounds that it is overbroad and unduly burdensome. Plaintiff further objects to this Interrogatory on the grounds that the term “requirements” is vague and ambiguous. Plaintiff also objects to this Interrogatory because it purports to impose an obligation on the Plaintiff to prepare a “list” which does not already exist and which is greater or more burdensome than the requirements of the Federal Rules of Civil Procedure and the Local Rules. Plaintiff also objects that this Request calls for information protected by attorney-client privilege, attorney work product doctrine and/or other applicable privilege. Plaintiff also objects to this Request on the ground that it unduly burdens its associational rights under the First Amendment and the rights of its members and donors. *See, e.g., NAACP v. Alabama*, 357 U.S.

**VERIFICATION OF RESPONSES TO INTERROGATORIES AND REQUESTS
FOR ADMISSIONS**

I, Helen Butler, am over the age of 18 years and am competent to execute this verification on behalf of the George Coalition for the People's Agenda, an organization, as its Executive Director.

I believe, based on reasonable inquiry, that the foregoing responses to the Interrogatories and Requests for Admissions are true and correct to the best of my knowledge, information, and belief. I verify as such under penalty of perjury under 28 U.S.C. § 1746.

A handwritten signature in black ink, appearing to read "Helen Butler", written over a horizontal line.

Helen Butler, Executive Director
Georgia Coalition for the People's Agenda,
Inc.

Dated this 19th day of September, 2022

Exhibit 3

**IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF GEORGIA ATLANTA DIVISION**

GEORGIA STATE CONFERENCE OF THE)	
NAACP, et al.)	
)	
<i>Plaintiffs,</i>	)	Case No. 1:21-CV-5338-
	)	ELB-SCJ-SDG
v.)	
)	
STATE OF GEORGIA, et al.)	
)	
<i>Defendants.</i>)	
_____	)	Case No. 1:22-CV-00090-
COMMON CAUSE, et al.,	)	ELB-SCJ-SDG
)	
<i>Plaintiffs,</i>)	
v.)	
)	
BRAD RAFFENSPERGER)	
)	
<i>Defendant.</i>)	

**GALEO LATINO COMMUNITY DEVELOPMENT FUND, INC.’S
OBJECTIONS AND RESPONSES TO DEFENDANTS’ FIRST SET OF
INTERROGATORIES, REQUESTS FOR PRODUCTION OF
DOCUMENTS, AND REQUESTS FOR ADMISSION**

Pursuant to Rules 33, 34, and 36 of the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the Northern District of Georgia, Plaintiff, GALEO Latino Community Development Fund, Inc. (“GALEO LCDF”) as an organization (“Plaintiff”), through its undersigned counsel, hereby responds and objects to the First Sets of Interrogatories, Requests for Production of

client privilege, attorney work product doctrine and/or other applicable privilege. Plaintiff also objects to this Request on the ground that it unduly burdens its associational rights under the First Amendment and the rights of its members and donors. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 462 (1958); *NAACP v. Button*, 371 U.S. 415, 429 (1963); *Buckley v. Valeo*, 424 U.S. 1, 64–68 (1976); *Perry v. Schwarzenegger*, 591 F.3d 1126, 1142 & fn. 9 (9th Cir. 2009); *AFL-CIO v. FEC*, 333 F.3d 168, 175 (D.C. Cir. 2003); *Black Panther Party v. Smith*, 661 F.2d 1243, 1264 (D.C. Cir. 1981), *cert. granted and vacated as moot*, 458 U.S. 1118 (1982); *Intl. Socy. for Krishna Consciousness, Inc. v. Lee*, 75 CIV. 5388 (MJL), 1985 WL 315, at *8 (S.D.N.Y. Feb. 28, 1985).

Subject to the Objections to Instructions and Definitions and the specific objections to this Interrogatory set forth above, Plaintiff responds as follows: As of the date of this response, Plaintiff has altered its “election-related” activities due to the adoption of the Redistricting Plans, but the vagueness and ambiguity of “discontinued” and “election-related” activities prevent Plaintiff from providing an affirmative or negative response. Because the negative impacts and consequences of the Redistricting Plans are ongoing, Plaintiff reserves the right to supplement this response.

INTERROGATORY NO. 6:

Identify all “members” of the Organizational Plaintiffs that Organizational

Plaintiffs plan to rely on for purposes of establishing associational standing.

OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 6:

Plaintiff incorporates herein by reference its Objections to Instructions and Definitions above as though fully set forth herein. Plaintiff further objects to this Interrogatory on the grounds that it is overbroad and unduly burdensome. Plaintiff objects to this Request on the grounds that this request is vague and ambiguous, including with respect to the meaning of the terms “Identify,” and “establishing.” Plaintiff further objects to this Request because it is premature and discovery is ongoing. Plaintiff also objects that this Request calls for information protected by attorney-client privilege, attorney work product doctrine and/or other applicable privilege. Plaintiff also objects to this Request on the ground that it unduly burdens its associational rights under the First Amendment and the rights of its members and donors. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 462 (1958); *NAACP v. Button*, 371 U.S. 415, 429 (1963); *Buckley v. Valeo*, 424 U.S. 1, 64–68 (1976); *Perry v. Schwarzenegger*, 591 F.3d 1126, 1142 & fn. 9 (9th Cir. 2009); *AFL-CIO v. FEC*, 333 F.3d 168, 175 (D.C. Cir. 2003); *Black Panther Party v. Smith*, 661 F.2d 1243, 1264 (D.C. Cir. 1981), *cert. granted and vacated as moot*, 458 U.S. 1118 (1982); *Intl. Socy. for Krishna Consciousness, Inc. v. Lee*, 75 CIV. 5388 (MJL), 1985 WL 315, at *8 (S.D.N.Y. Feb. 28, 1985).

Without waiving any of these objections, Plaintiff expects to offer evidence

that it has members residing in certain of the challenged districts at issue in this litigation.

INTERROGATORY NO. 7:

Explain how individuals or organizations, if any, become members of the Organizational Plaintiffs and list all requirements of membership for each.

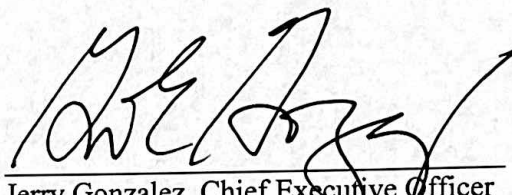
OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 7:

Plaintiff incorporates herein by reference its Objections to Instructions and Definitions above as though fully set forth herein. Plaintiff further objects to this Interrogatory on the grounds that it is overbroad and unduly burdensome. Plaintiff further objects to this Interrogatory on the grounds that the term “requirements” is vague and ambiguous. Plaintiff also objects to this Interrogatory because it purports to impose an obligation on the Plaintiff to prepare a “list” which does not already exist and which is greater or more burdensome than the requirements of the Federal Rules of Civil Procedure and the Local Rules. Plaintiff also objects that this Request calls for information protected by attorney-client privilege, attorney work product doctrine and/or other applicable privilege. Plaintiff also objects to this Request on the ground that it unduly burdens its associational rights under the First Amendment and the rights of its members and donors. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 462 (1958); *NAACP v. Button*, 371 U.S. 415, 429 (1963); *Buckley v. Valeo*, 424 U.S. 1, 64–68 (1976); *Perry v. Schwarzenegger*, 591 F.3d 1126, 1142 & fn. 9 (9th

**VERIFICATION OF RESPONSES TO INTERROGATORIES AND REQUESTS
FOR ADMISSIONS**

I, Jerry Gonzalez, am over the age of 18 years and am competent to execute this verification on behalf of GALEO Latino Community Development Fund, Inc., an organization, as its Chief Executive Officer.

I believe, based on reasonable inquiry, that the foregoing responses to the Interrogatories and Requests for Admissions are true and correct to the best of my knowledge, information, and belief. I verify as such under penalty of perjury under 28 U.S.C. § 1746.



Jerry Gonzalez, Chief Executive Officer
GALEO Latino Community Development
Fund, Inc.

Dated this 9th day of September, 2022

Exhibit 4

**IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF GEORGIA ATLANTA DIVISION**

GEORGIA STATE CONFERENCE OF THE)	
NAACP, et al.)	
)	
<i>Plaintiffs,</i>	)	Case No. 1:21-CV-5338-
	)	ELB-SCJ-SDG
v.)	
)	
STATE OF GEORGIA, et al.)	
)	
<i>Defendants.</i>)	
_____	)	Case No. 1:22-CV-00090-
COMMON CAUSE, et al.,	)	ELB-SCJ-SDG
)	
<i>Plaintiffs,</i>)	
v.)	
)	
BRAD RAFFENSPERGER)	
)	
<i>Defendant.</i>)	

**GEORGIA STATE CONFERENCE OF THE NAACP’S OBJECTIONS
AND RESPONSES TO DEFENDANTS’ FIRST SET OF
INTERROGATORIES, REQUESTS FOR PRODUCTION OF
DOCUMENTS, AND REQUESTS FOR ADMISSION**

Pursuant to Rules 33, 34, and 36 of the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the Northern District of Georgia, Plaintiff, Georgia State Conference of the NAACP, (“GA NAACP”) as an organization (“Plaintiff”), through its undersigned counsel, hereby responds and objects to the First Sets of Interrogatories, Requests for Production of Documents,

1142 & fn. 9 (9th Cir. 2009); *AFL-CIO v. FEC*, 333 F.3d 168, 175 (D.C. Cir. 2003); *Black Panther Party v. Smith*, 661 F.2d 1243, 1264 (D.C. Cir. 1981), *cert. granted and vacated as moot*, 458 U.S. 1118 (1982); *Intl. Socy. for Krishna Consciousness, Inc. v. Lee*, 75 CIV. 5388 (MJL), 1985 WL 315, at *8 (S.D.N.Y. Feb. 28, 1985).

Subject to the Objections to Instructions and Definitions and the specific objections to this Interrogatory set forth above, Plaintiff responds as follows: As of the date of this response, Plaintiff has altered its “election-related” activities due to the adoption of the Redistricting Plans, but the vagueness and ambiguity of “discontinued” and “election-related” activities prevent Plaintiff from providing an affirmative or negative response. Because the negative impacts and consequences of the Redistricting Plans are ongoing, Plaintiff reserves the right to supplement this response.

INTERROGATORY NO. 6:

Identify all “members” of the Organizational Plaintiffs that Organizational Plaintiffs plan to rely on for purposes of establishing associational standing.

OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 6:

Plaintiff incorporates herein by reference its Objections to Instructions and Definitions above as though fully set forth herein. Plaintiff further objects to this Interrogatory on the grounds that it is overbroad and unduly burdensome. Plaintiff objects to this Request on the grounds that this request is vague and ambiguous,

including with respect to the meaning of the terms “Identify,” and “establishing.” Plaintiff further objects to this Request because it is premature and discovery is ongoing. Plaintiff also objects that this Request calls for information protected by attorney-client privilege, attorney work product doctrine and/or other applicable privilege. Plaintiff also objects to this Request on the ground that it unduly burdens its associational rights under the First Amendment and the rights of its members and donors. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 462 (1958); *NAACP v. Button*, 371 U.S. 415, 429 (1963); *Buckley v. Valeo*, 424 U.S. 1, 64–68 (1976); *Perry v. Schwarzenegger*, 591 F.3d 1126, 1142 & fn. 9 (9th Cir. 2009); *AFL-CIO v. FEC*, 333 F.3d 168, 175 (D.C. Cir. 2003); *Black Panther Party v. Smith*, 661 F.2d 1243, 1264 (D.C. Cir. 1981), *cert. granted and vacated as moot*, 458 U.S. 1118 (1982); *Intl. Socy. for Krishna Consciousness, Inc. v. Lee*, 75 CIV. 5388 (MJL), 1985 WL 315, at *8 (S.D.N.Y. Feb. 28, 1985).

Without waiving any of these objections, Plaintiff expects to offer evidence that it has members residing in certain of the challenged districts at issue in this litigation.

INTERROGATORY NO. 7:

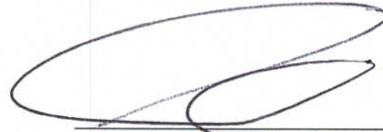
Explain how individuals or organizations, if any, become members of the Organizational Plaintiffs and list all requirements of membership for each.

OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 7:

**VERIFICATION OF RESPONSES TO INTERROGATORIES AND REQUESTS
FOR ADMISSIONS**

I, Gerald Griggs, am over the age of 18 years and am competent to execute this verification on behalf of the Georgia State Conference of the NAACP, an organization, as its President.

I believe, based on reasonable inquiry, that the foregoing responses to the Interrogatories and Requests for Admissions are true and correct to the best of my knowledge, information, and belief. I verify as such under penalty of perjury under 28 U.S.C. § 1746.



Gerald Griggs, President
Georgia State Conference of the NAACP

Dated this 9th day of September, 2022

Exhibit 5



Taylor English Duma LLP 1600 Parkwood Circle, Suite 200, Atlanta, Georgia 30339
Main: 770.434.6868 Fax: 770.434.7376 taylorenghish.com

Bryan P. Tyson
Phone: (678) 336-7249
Email: btyson@taylorenghish.com

September 13, 2022

VIA EMAIL ONLY

Jacob Canter, Esq.
Crowell & Moring LLP
3 Embarcadero Center
26th Floor
San Francisco, CA 94111

Re: *Georgia State Conf. of the NAACP v. State of Georgia*
Case No. 1:21-CV-5338-ELB-SCJ-SDG
Discovery Responses

Dear Jacob:

Thank you for providing your responses to our discovery requests on September 6, 2022. We write to address several deficiencies in your responses and to requested updated responses. If we are unable to resolve the issues in this letter, we will need to raise these issues with the Court quickly, given the upcoming deadlines.

While each of the three Plaintiffs provide a separate response, the responses are identical in terms of objections and refusals to produce documents. Thus, we address all three responses in one letter for ease of reference and each numbered response refers to the response from all three of your clients.

Objections to instructions and definitions

You indicate that you believe the time period, which begins on January 1, 2020, is inappropriate but indicate your willingness to confer. Please advise of your availability for a meet and confer on the date range.

You also object to the definitions of Congressional Plan and Senate Plan (but not House Plan) despite using similar definitions in your document requests to Defendants. Please advise of your availability for a meet and confer regarding the definition of Congressional Plan and Senate Plan.

Jacob Canter, Esq.
Crowell & Moring LLP
September 13, 2022
Page 2

Responses to interrogatories

You object to Interrogatories 1 through 12 by initially incorporating by reference your “Objections to Instructions and Definitions above as though fully set forth herein.” This is not permitted by Judge Grimberg’s standing order, which requires that “a party must respond to each individual discovery request with every specific objection thereto—but only those objections that actually apply to that particular request.” Please revise your interrogatory responses to reflect the specific objections from to the instructions and definitions for each response.

Further, your responses to Interrogatories 1, 2, 4, 5, 7, 8, and 11 are provided “Subject to the Objections to Instructions and Definitions and the specific objections to this Interrogatory set forth above.” You never indicate whether more information would be provided but for the objections. Judge Grimberg’s standing order requires this information to be provided, III.d., and the Advisory Committee notes to Rule 33 likewise note that this information should be provided. Please advise whether your answers to Interrogatories 1, 2, 4, 5, 7, 8, and 11 are complete or whether you are withholding information pursuant to your objections.

You object to Interrogatory 3 on a variety of grounds and refuse to provide information. This interrogatory is relevant to the claims in this case because it is limited to vendors with whom Plaintiffs contracted for fundraising and advertising related specifically to redistricting and the plans on which Plaintiffs have sued Defendants. Defendants are entitled to explore whether Plaintiffs have benefitted from filing this lawsuit by fundraising, for example, which relates directly to whether they are able to show an injury that results from “drain[ing] its resources and thereby impair[ing] its other operations.” *Jacobson v. Fla. Sec’y of State*, 974 F.3d 1236, 1249 (11th Cir. 2020). The information sought also does not involve the associational privilege because it does not seek information about members and does not affect First Amendment rights because it relates directly to whether Plaintiffs have suffered an injury. Please provide responsive information or advise whether you will stand on your objections and refuse to provide any information.

You object to Interrogatory 6 and refuse to provide any information beyond saying you will later offer testimony on this point. As you know, to establish associational standing, Plaintiffs must “make specific allegations establishing that at least one identified member had suffered or would suffer harm,” *Summers v. Earth Island Inst.*, 555 U.S. 488, 498 (2009), and that includes a requirement to “identify at least one member who has or will suffer harm.” *Ga. Republican Party v. SEC*, 888 F.3d 1198, 1204 (11th Cir. 2018). If Organizational Plaintiffs are no longer seeking to establish standing through harm to members, then please so state. If Organizational Plaintiffs are seeking to establish standing through harm to members, this interrogatory must be answered with identified individuals. Please provide responsive information

Jacob Canter, Esq.
Crowell & Moring LLP
September 13, 2022
Page 3

or advise whether you will stand on your objections and refuse to provide any information.

You object to Interrogatory 9 and refuse to provide any information. Your objection is to the term “legislative process,” but you used this exact term in your Complaint, when claiming that the “legislative process” was expedited. [Doc. 59, ¶ 342]. The paragraphs of your Complaint cited in Interrogatory 9 include allegations that the process had a “lack of transparency,” ¶ 103, was “anything but transparent,” ¶ 115, that the process was “secretive” and “excluded the public and minority party members,” ¶ 109, that the process was “intentionally rushed,” ¶ 116, and that the problems with the process “virtually guaranteed that the . . . redistricting plans would not be reflective of the interests and concerns of Georgia voters,” ¶ 116. Refusing to answer what process you contend should have governed the consideration and passage of the redistricting plans is inappropriate and Defendants are entitled to know the process you claim the General Assembly should have applied. Please provide responsive information or advise whether you will stand on your objections and refuse to provide any information.

You object to Interrogatory 10 and refuse to provide any information. This interrogatory sought information known to Plaintiffs of requests from Democratic and minority legislators being ignored. The use of the term “ignored” is not vague and ambiguous, as you used the same term in ¶ 180 of your Complaint related to requests from minority community members. If the Republican-controlled General Assembly adopted the requests of minority legislators, that is relevant to your claims of improper race-based districting. In short, if you are unaware of any requests at this time, you should so state and supplement your answer at a later point. If you are aware of instances, you should explain them and can later supplement. In any case, refusing to answer is not appropriate. Please provide responsive information or advise whether you will stand on your objections and refuse to provide any information.

Responses to requests for production

We turn next to your responses to the requests for production of documents.

You object to Requests 2, 3, 4, 6, 7, and 9, indicating that you are withholding documents pursuant to your objections. Given the importance of standing as an issue in this case, documents related to each Plaintiffs’ organizational structure and budget is critically important. Please advise on which objections you are withholding documents and provide a time for us to meet and confer regarding your objections.

You object to Request 5 on a variety of grounds and refuse to produce documents. If there are no corporate meetings or minutes authorizing the filing of this litigation, then you should so state. If such documents exist, they are relevant to the

Jacob Canter, Esq.
Crowell & Moring LLP
September 13, 2022
Page 4

standing of Plaintiffs because we are entitled to test whether the Redistricting Plans are “drain[ing] its resources and thereby impair[ing] its other operations.” *Jacobson*, 974 F.3d at 1249. Moreover, they are relevant to standing because Plaintiffs must show what they “divert[ed] resources away from in order to spend additional resources on combatting the [alleged injury], as precedent requires.” *Id.* at 1250. Please provide your availability to meet and confer on this Request.

You object to Request 8 on a variety of grounds and refuse to produce documents. Because Plaintiffs are alleging a financial diversion of resources, this information is highly relevant to determining whether the Redistricting Plans are “drain[ing] its resources and thereby impair[ing] its other operations.” *Jacobson*, 974 F.3d at 1249. If Plaintiffs are no longer alleging a financial diversion of resources, this budgetary information is not required. Please provide your availability to meet and confer.

You object to Request 10 on a variety of grounds and agree only to produce Form 990s for the relevant years. You further indicate you are withholding responsive documents based on your objections. Similarly, you object to Request 11 and refuse to provide any documents. Both Requests seek documents related to fundraising by the Plaintiffs. These requests are relevant to Plaintiffs’ standing. Because Plaintiffs are alleging a financial diversion of resources, this information is highly relevant to determining whether the Redistricting Plans are “drain[ing] its resources and thereby impair[ing] its other operations.” *Jacobson*, 974 F.3d at 1249. If Organizational Plaintiffs’ fundraising went up after the Redistricting Plans were adopted, that is relevant to whether they were injured by the Redistricting Plans. Please advise whether you will withdraw your objections and produce all responsive documents or, if not, your availability to meet and confer.

Request 12 sought information about fundraising solicitations made that mention or refer to this litigation and the Redistricting Plans, which relates directly to whether Plaintiffs are benefiting from this litigation and the Redistricting Plans as opposed to being injured for purposes of Article III standing. This Request does not seek documents that are protected by the associational privilege because it seeks no donor information, but only communications made by Plaintiffs to potential donors related to the plans or this litigation. Please advise whether you will withdraw your objections and produce all responsive documents or, if not, your availability to meet and confer.

Requests 17, 18, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, and 40 asked for documents supporting specific statements you made in your Complaint. For each of these requests, you object and refuse to produce any documents. If you do not have any documents supporting the statements in your own Complaint, you should indicate that instead of refusing to produce documents entirely.

Jacob Canter, Esq.
Crowell & Moring LLP
September 13, 2022
Page 5

Or if you only have documents protected by various privileges, you should so indicate and produce a privilege log. Please advise on your availability to meet and confer regarding these responses.

Requests 43, 44, and 45 seek documents related to communications with others. Defendants are willing to narrow these requests solely to communications prior to the filing of the current lawsuits that relate to the Redistricting Plans themselves. Please advise whether Plaintiffs will produce documents with this narrowed scope or provide times to meet and confer.

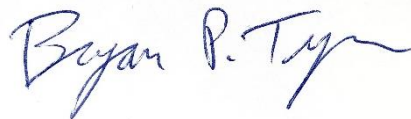
Timeline for document production

In addition to the other requests in this letter, please also provide an estimated timeline for production of documents for non-ESI search documents.

Conclusion

We appreciate the opportunity to work cooperatively on these issues. Please provide times to confer at your earliest convenience, but no later than September 21, 2022.

Sincerely,

A handwritten signature in blue ink that reads "Bryan P. Tyson". The signature is fluid and cursive, with the first name being the most prominent.

Bryan P. Tyson
For TAYLOR ENGLISH DUMA LLP

cc: Counsel of record (by email)

Exhibit 6

Berry, Crinesha

From: Bryan Tyson <btyson@taylorenghish.com>
Sent: Monday, November 21, 2022 8:18 AM
To: Berry, Crinesha
Cc: Bryan Jacoutot; Frank Strickland; Julie Houk; Ezra Rosenberg; kurt@kastorflaw.com; GA-Redistricting; jgreenbaum@lawyerscommittee.org
Subject: RE: Georgia Redistricting Cases - Letter on Discovery Responses

External Email

Crinesha,

Thanks for this email – yes, this confirms our agreement and the meet and confer.

Have a great Thanksgiving week,

Bryan

Bryan P. Tyson

Taylor English Duma LLP | 1600 Parkwood Circle, Suite 200, Atlanta, GA 30339

P: 678.336.7249 | M: 404.219.3160 | btyson@taylorenghish.com

[Website](#) | [LinkedIn](#) | [Twitter](#)



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From: Berry, Crinesha <CBerry@crowell.com>
Sent: Sunday, November 20, 2022 1:22 PM
To: Bryan Tyson <btyson@taylorenghish.com>
Cc: Bryan Jacoutot <bjacoutot@taylorenghish.com>; Frank Strickland <fstrickland@taylorenghish.com>; Julie Houk <jhouk@lawyerscommittee.org>; Ezra Rosenberg <erosenberg@lawyerscommittee.org>; kurt@kastorflaw.com; GA-Redistricting <GA_Redistricting@crowell.com>; jgreenbaum@lawyerscommittee.org
Subject: RE: Georgia Redistricting Cases - Letter on Discovery Responses

Hi Bryan,

I'm writing to confirm the outcome of our meet and confer on Friday. The conclusion was that for any Plaintiff that identifies one member, the State's challenge to that Plaintiff's associational standing will be limited to the identified member's individual standing. If circumstances arise such that a Plaintiff identifies a different member for associational standing purposes, the State may take additional discovery regarding that member's individual standing notwithstanding the expiration of discovery-related deadlines.

Please confirm that you agree.

Best,
Crinesha

Crinesha B. Berry

Crowell & Moring LLP
cberry@crowell.com
+1.202.688.3435 direct | +1.757.593.4107 mobile

From: Berry, Crinesha <CBerry@crowell.com>
Sent: Wednesday, November 16, 2022 11:51 AM
To: Bryan Tyson <btyson@taylorenghish.com>
Cc: Bryan Jacoutot <bjacoutot@taylorenghish.com>; Frank Strickland <fstrickland@taylorenghish.com>; Julie Houk <jhouk@lawyerscommittee.org>; Ezra Rosenberg <erosenberg@lawyerscommittee.org>; kurt@kastorflaw.com; GA-Redistricting <GA_Redistricting@crowell.com>; jgreenbaum@lawyerscommittee.org
Subject: RE: Georgia Redistricting Cases - Letter on Discovery Responses

Hi Bryan,

We can do 1:30 pm ET. I can circulate a dial-in.

Crinesha B. Berry

Crowell & Moring LLP
cberry@crowell.com
+1.202.688.3435 direct | +1.757.593.4107 mobile

From: Bryan Tyson <btyson@taylorenghish.com>
Sent: Wednesday, November 16, 2022 10:06 AM
To: Berry, Crinesha <CBerry@crowell.com>
Cc: Bryan Jacoutot <bjacoutot@taylorenghish.com>; Frank Strickland <fstrickland@taylorenghish.com>; Julie Houk <jhouk@lawyerscommittee.org>; Ezra Rosenberg <erosenberg@lawyerscommittee.org>; kurt@kastorflaw.com; GA-Redistricting <GA_Redistricting@crowell.com>; jgreenbaum@lawyerscommittee.org
Subject: RE: Georgia Redistricting Cases - Letter on Discovery Responses

External Email

Thanks, Crinesha. Our schedule was up in the air, but it looks like we can talk anytime on Friday between 9:00 and 3:00. Would something in that window work for you?

Bryan P. Tyson

Taylor English Duma LLP | 1600 Parkwood Circle, Suite 200, Atlanta, GA 30339
P: 678.336.7249 | M: 404.219.3160 | btyson@taylorenghish.com
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From: Berry, Crinesha <CBerry@crowell.com>
Sent: Monday, November 14, 2022 8:15 PM
To: Bryan Tyson <btyson@taylorenghish.com>
Cc: Bryan Jacoutot <bjacoutot@taylorenghish.com>; Frank Strickland <fstrickland@taylorenghish.com>; Julie Houk <jhouk@lawyerscommittee.org>; Ezra Rosenberg <erosenberg@lawyerscommittee.org>; kurt@kastorflaw.com; GA-Redistricting <GA_Redistricting@crowell.com>; jgreenbaum@lawyerscommittee.org
Subject: RE: Georgia Redistricting Cases - Letter on Discovery Responses

Bryan,

Plaintiffs agree to waive any argument that they can support organizational standing by showing financial diversion, on the condition that the State withdraws Interrogatory No. 3 and RFPs 10-12 and agrees not to seek similar evidence, i.e. via deposition questions on financial diversion. To be clear, we want to clarify that Plaintiffs still intend to support organizational standing by showing diversion of non-financial resources, such as activities specifically for the redistricting plans that divert time, personnel, and other non-financial resources from Plaintiffs' usual activities. Please confirm that you agree.

On the associational standing issue, we agree a call would be helpful. What's your availability for a call this week?

Thanks,
Crinesha

Crinesha B. Berry

Crowell & Moring LLP

cberry@crowell.com

+1.202.688.3435 direct | +1.757.593.4107 mobile

From: Bryan Tyson <btyson@taylorenghish.com>
Sent: Wednesday, November 9, 2022 3:53 PM
To: Berry, Crinesha <CBerry@crowell.com>
Cc: Bryan Jacoutot <bjacoutot@taylorenghish.com>; Frank Strickland <fstrickland@taylorenghish.com>; Julie Houk <jhouk@lawyerscommittee.org>; Ezra Rosenberg <erosenberg@lawyerscommittee.org>; Jackson, Toni <TJackson@crowell.com>; Heaven, Astor <AHeaven@crowell.com>; Liu, Shira <SLiu@crowell.com>; kurt@kastorflaw.com; GA-Redistricting <GA_Redistricting@crowell.com>; jgreenbaum@lawyerscommittee.org; Canter, Jacob <JCanter@crowell.com>; Horstman, Raija <RHorstman@crowell.com>
Subject: RE: Georgia Redistricting Cases - Letter on Discovery Responses

External Email

Crinesha,

Thanks for following up.

To answer your questions, if Plaintiffs will no longer assert a financial diversion of resources as a basis for standing, we will withdraw Interrogatory 3 and RFPs 10 through 12.

On the associational standing issue, if Plaintiffs are willing to commit to identifying a member or members and will not identify other members through which they will pursue associational standing, we can keep our inquiries limited to the identified individuals. But we will need a firm commitment that Plaintiffs will not later assert other members. If not, we will need to test associational standing through discovery requests related to a broader group of organizational members. Hopefully that makes sense.

If that doesn't resolve the issues from your perspective, let us know and we can hop on the phone or a Zoom to discuss.

Thanks,

Bryan



Bryan P. Tyson

Taylor English Duma LLP | 1600 Parkwood Circle, Suite 200, Atlanta, GA 30339

P: 678.336.7249 | M: 404.219.3160 | btyson@taylorenghish.com

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From: Berry, Crinesha <CBerry@crowell.com>

Sent: Tuesday, November 8, 2022 6:30 PM

To: Bryan Tyson <btyson@taylorenghish.com>

Cc: Bryan Jacoutot <bjacoutot@taylorenghish.com>; Frank Strickland <fstrickland@taylorenghish.com>; Julie Houk <jhouk@lawyerscommittee.org>; Ezra Rosenberg <erosenberg@lawyerscommittee.org>; Jackson, Toni <TJackson@crowell.com>; Heaven, Astor <AHeaven@crowell.com>; Liu, Shira <SLiu@crowell.com>;

kurt@kastorflaw.com; GA-Redistricting <GA_Redistricting@crowell.com>; jgreenbaum@lawyerscommittee.org; Canter, Jacob <JCanter@crowell.com>; Horstman, Raija <RHorstman@crowell.com>

Subject: RE: Georgia Redistricting Cases - Letter on Discovery Responses

Hi Bryan,

It's been over five weeks since our meet and confer, and we'd like to close the loop on the remaining issues. Please let us know whether you will withdraw Interrogatory 3 and RFPs 10-12 if Plaintiffs waive a claim to financial diversion of resources. Please also let us know if each Plaintiff identifies one member, the State's challenges to associational standing would be limited to the identified members. Thank you.

Best,
Crinesha

Crinesha B. Berry

Crowell & Moring LLP

cberry@crowell.com

+1.202.688.3435 direct | +1.757.593.4107 mobile

From: Berry, Crinesha <CBerry@crowell.com>

Sent: Friday, October 14, 2022 11:36 PM

To: Bryan Tyson <btyson@taylorenghish.com>

Cc: Bryan Jacoutot <bjacoutot@taylorenghish.com>; Frank Strickland <fstrickland@taylorenghish.com>; Julie Houk <jhouk@lawyerscommittee.org>; Ezra Rosenberg <erosenberg@lawyerscommittee.org>; Jackson, Toni <TJackson@crowell.com>; Heaven, Astor <AHeaven@crowell.com>; Liu, Shira <SLiu@crowell.com>; kurt@kastorflaw.com; GA-Redistricting <GA_Redistricting@crowell.com>; jgreenbaum@lawyerscommittee.org; Canter, Jacob <JCanter@crowell.com>; Horstman, Raija <RHorstman@crowell.com>

Subject: RE: Georgia Redistricting Cases - Letter on Discovery Responses

Thank you, Bryan.

On associational standing, you wrote: “[W]e cannot waive any challenge to associational standing if a member is identified, because there are other requirements that still must be met.” As we evaluate your request we would like to further understand your position. Can you confirm that if each Plaintiff identifies one member in response to Interrogatory No. 6, you will confine your associational standing challenge to whether each of these identified members would have standing to sue as an individual?

Please also confirm whether you will withdraw Interrogatory 3 and RFPs 10-12 if Plaintiffs waive a claim to financial diversion of resources.

Best,
Crinesha

Crinesha B. Berry

Crowell & Moring LLP

cberry@crowell.com

+1.202.688.3435 direct | +1.757.593.4107 mobile

From: Bryan Tyson <btyson@taylorenghish.com>

Sent: Friday, October 7, 2022 3:56 PM

To: Berry, Crinesha <CBerry@crowell.com>

Cc: Bryan Jacoutot <bjacoutot@taylorenghish.com>; Frank Strickland <fstrickland@taylorenghish.com>; Julie Houk <jhouk@lawyerscommittee.org>; Ezra Rosenberg <erosenberg@lawyerscommittee.org>; Jackson, Toni <TJackson@crowell.com>; Heaven, Astor <AHeaven@crowell.com>; Liu, Shira <SLiu@crowell.com>; kurt@kastorflaw.com; GA-Redistricting <GA_Redistricting@crowell.com>; jgreenbaum@lawyerscommittee.org; Canter, Jacob <JCanter@crowell.com>; Horstman, Raija <RHorstman@crowell.com>

Subject: RE: Georgia Redistricting Cases - Letter on Discovery Responses

External Email

Crinesha,

Thanks for this message. This correctly states our conversation. We are still considering how to handle Interrogatory 3 and RFP 10-12 but will let you know.

On the associational standing issue, we cannot waive any challenge to associational standing if a member is identified, because there are other requirements that still must be met. But identifying the member will resolve the dispute regarding Interrogatory No. 6.

Thanks, and hope you have a great weekend,

Bryan

Bryan P. Tyson

Taylor English Duma LLP | 1600 Parkwood Circle, Suite 200, Atlanta, GA 30339

P: 678.336.7249 | M: 404.219.3160 | btyson@taylorenghish.com

[Website](#) | [LinkedIn](#) | [Twitter](#)



Ask Me About Our TED Tenet of the Week: Invest in Relationships.

Click [here](#) to learn more about our TED Tenets.

Alabama | California | Florida | Georgia | Illinois | Indiana | Michigan | North Carolina | Pennsylvania | Tennessee | Texas | Washington | Wisconsin

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From: Berry, Crinesha <CBerry@crowell.com>

Sent: Friday, September 30, 2022 11:00 PM

To: Bryan Tyson <btyson@taylorenghish.com>

Cc: Bryan Jacoutot <bjacoutot@taylorenghish.com>; Frank Strickland <fstrickland@taylorenghish.com>; Julie Houk <jhouk@lawyerscommittee.org>; Ezra Rosenberg <erosenberg@lawyerscommittee.org>; Jackson, Toni <TJackson@crowell.com>; Heaven, Astor <AHeaven@crowell.com>; Liu, Shira <SLiu@crowell.com>; kurt@kastorflaw.com; GA-Redistricting <GA_Redistricting@crowell.com>; jgreenbaum@lawyerscommittee.org; Canter, Jacob <JCanter@crowell.com>; Horstman, Raija <RHorstman@crowell.com>

Subject: RE: Georgia Redistricting Cases - Letter on Discovery Responses

Hi Bryan

Thank you for a productive meet and confer. I'm writing to confirm and follow up on a few items we discussed.

I explained on our call that Plaintiffs are not withholding any documents based on the general objections that prefaced our specific objections. I also stated that Plaintiffs' responses to Interrogatories 1, 2, 4, 5, 7, 8, and 11 are complete but that Plaintiffs reserve the right to supplement those responses as discovery continues.

During today's call Plaintiffs agreed to supplement RFP Nos. 17, 18, 21, 22, 23, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, and 40 to state that should we receive responsive documents from the Legislature Parties, we will produce them. Our understanding is that this will resolve any alleged deficiencies in our responses to these RFPs. You stated on today's call that if Plaintiffs waive a claim to financial diversion of resources, you will agree to withdraw RFPs 7, 8, and 9, but that you will follow up to let us know whether you will also withdraw Interrogatory 3 and RFPs 10-12. Please confirm your position.

With respect to Interrogatory 6, you requested that each Plaintiffs identify one member. Please let us know whether the State will waive any challenge to associational standing if Plaintiffs comply with this request.

Thanks very much and have a good weekend.

Crinesha B. Berry

Crowell & Moring LLP

cberry@crowell.com

+1.202.688.3435 direct | +1.757.593.4107 mobile

From: Layman, Shawn <SLayman@crowell.com>

Sent: Thursday, September 22, 2022 9:02 AM

To: Bryan Tyson <btyson@taylorenghish.com>
Cc: Bryan Jacoutot <bjacoutot@taylorenghish.com>; Frank Strickland <fstrickland@taylorenghish.com>; Julie Houk <jhouk@lawyerscommittee.org>; Ezra Rosenberg <erosenberg@lawyerscommittee.org>; Jackson, Toni <TJackson@crowell.com>; Heaven, Astor <AHeaven@crowell.com>; Liu, Shira <SLiu@crowell.com>; kurt@kastorflaw.com; GA-Redistricting <GA_Redistricting@crowell.com>; jgreenbaum@lawyerscommittee.org; Canter, Jacob <JCanter@crowell.com>; Berry, Crinesha <CBerry@crowell.com>; Horstman, Raija <RHorstman@crowell.com>
Subject: Re: Georgia Redistricting Cases - Letter on Discovery Responses

Bryan,

We'll circulate a meeting invite.

Shawn C. Layman

Crowell & Moring LLP
slayman@crowell.com
[+1.202.654.6704](tel:+12026546704) direct

On Sep 22, 2022, at 8:18 AM, Bryan Tyson <btyson@taylorenghish.com> wrote:

External Email

I'm sorry – right after I hit send I had something else pop on the calendar for Wednesday. Let's do Friday the 30th at 2:00 instead.

Thanks,

Bryan



Bryan P. Tyson

Taylor English Duma LLP | 1600 Parkwood Circle, Suite 200, Atlanta, GA 30339
P: 678.336.7249 | M: 404.219.3160 | btyson@taylorenghish.com
[Website](#) | [LinkedIn](#) | [Twitter](#)

Ask Me About Our TED Tenet of the Week: Honor Commitments.

Click [here](#) to learn more about our TED Tenets.

Alabama | California | Florida | Georgia | Illinois | Indiana | Michigan | North Carolina | Pennsylvania | Tennessee | Texas | Washington | Wisconsin

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From: Layman, Shawn <SLayman@crowell.com>

Sent: Wednesday, September 21, 2022 5:19 PM

To: Bryan Tyson <btyson@taylorenghish.com>

Cc: Bryan Jacoutot <bjacoutot@taylorenghish.com>; Frank Strickland <fstrickland@taylorenghish.com>; Julie Houk <jhouk@lawyerscommittee.org>; Ezra Rosenberg <erosenberg@lawyerscommittee.org>; Jackson, Toni <TJackson@crowell.com>; Heaven, Astor <AHeaven@crowell.com>; Liu, Shira

<SLiu@crowell.com>; kurt@kastorflaw.com; GA-Redistricting <GA_Redistricting@crowell.com>; jgreenbaum@lawyerscommittee.org; Canter, Jacob <JCanter@crowell.com>; Berry, Crinesha <CBerry@crowell.com>; Horstman, Raija <RHorstman@crowell.com>

Subject: RE: Georgia Redistricting Cases - Letter on Discovery Responses

Hello Bryan,

We would like to schedule a meet and confer to discuss the discovery matters raised in your September 13 letter.

Our availability for next week is as follows:

Wednesday, September 28:

1. 3:00pm EST – 4:00pm EST

Friday, September 30:

1. 2:00pm EST – 4:00pm EST

Please let us know if these times work for your team and we will circulate a meeting invite.

Sincerely,

Shawn C. Layman

Crowell & Moring LLP

slayman@crowell.com

+1.202.654.6704 direct

From: Bryan Tyson <btyson@taylorenghish.com>

Sent: Tuesday, September 13, 2022 2:55 PM

To: Canter, Jacob <JCanter@crowell.com>

Cc: Bryan Jacoutot <bjacoutot@taylorenghish.com>; Horstman, Raija <RHorstman@crowell.com>; Frank Strickland <fstrickland@taylorenghish.com>; Julie Houk <jhouk@lawyerscommittee.org>; Ezra Rosenberg <erosenberg@lawyerscommittee.org>; Jackson, Toni <TJackson@crowell.com>; Heaven, Astor <AHeaven@crowell.com>; Liu, Shira <SLiu@crowell.com>; kurt@kastorflaw.com; GA-Redistricting <GA_Redistricting@crowell.com>; jgreenbaum@lawyerscommittee.org

Subject: Georgia Redistricting Cases - Letter on Discovery Responses

External Email

Jacob,

As we mentioned yesterday, please find attached a letter regarding your responses to our discovery requests. We look forward to your response.

Thanks,

Bryan

Bryan P. Tyson

Taylor English Duma LLP | 1600 Parkwood Circle, Suite 200, Atlanta, GA 30339

P: 678.336.7249 | M: 404.219.3160 | btyson@taylorenghish.com

[Website](#) | [LinkedIn](#) | [Twitter](#)



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Exhibit 7

**IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF GEORGIA ATLANTA DIVISION**

GEORGIA STATE CONFERENCE OF THE)	
NAACP, et al.)	
)	
<i>Plaintiffs,</i>	)	Case No. 1:21-CV-5338-
	)	ELB-SCJ-SDG
v.)	
)	
STATE OF GEORGIA, et al.)	
)	
<i>Defendants.</i>)	
_____	)	Case No. 1:22-CV-00090-
COMMON CAUSE, et al.,	)	ELB-SCJ-SDG
)	
<i>Plaintiffs,</i>)	
v.)	
)	
BRAD RAFFENSPERGER)	
)	
<i>Defendant.</i>)	

**GEORGIA COALITION FOR THE PEOPLE’S AGENDA, INC.’S FIRST
SUPPLEMENTAL OBJECTIONS AND RESPONSES TO DEFENDANTS’
FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION
OF DOCUMENTS, AND REQUESTS FOR ADMISSION**

Pursuant to Rules 33, 34, and 36 of the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the Northern District of Georgia, Plaintiff, Georgia Coalition for the People’s Agenda, Inc (“GCPA”) as an organization (“Plaintiff”) responds and objects to the First Sets of Interrogatories, Requests for Production of Documents, and Requests for Admission dated August

to this Request on the ground that it unduly burdens its associational rights under the First Amendment and the rights of its members and donors. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 462 (1958); *NAACP v. Button*, 371 U.S. 415, 429 (1963); *Buckley v. Valeo*, 424 U.S. 1, 64–68 (1976); *Perry v. Schwarzenegger*, 591 F.3d 1126, 1142 & fn. 9 (9th Cir. 2009); *AFL-CIO v. FEC*, 333 F.3d 168, 175 (D.C. Cir. 2003); *Black Panther Party v. Smith*, 661 F.2d 1243, 1264 (D.C. Cir. 1981), *cert. granted and vacated as moot*, 458 U.S. 1118 (1982); *Intl. Socy. for Krishna Consciousness, Inc. v. Lee*, 75 CIV. 5388 (MJL), 1985 WL 315, at *8 (S.D.N.Y. Feb. 28, 1985).

Subject to the Objections to Instructions and Definitions and the specific objections to this Interrogatory set forth above, Plaintiff responds as follows: As of the date of this response, Plaintiff has altered its “election-related” activities due to the adoption of the Redistricting Plans, but the vagueness and ambiguity of “discontinued” and “election-related” activities prevent Plaintiff from providing an affirmative or negative response. Because the negative impacts and consequences of the Redistricting Plans are ongoing, Plaintiff reserves the right to supplement this response.

INTERROGATORY NO. 6:

Identify all “members” of the Organizational Plaintiffs that Organizational Plaintiffs plan to rely on for purposes of establishing associational standing.

OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 6:

Plaintiff incorporates herein by reference its Objections to Instructions and Definitions above as though fully set forth herein. Plaintiff further objects to this Interrogatory on the grounds that it is overbroad and unduly burdensome. Plaintiff objects to this Request on the grounds that this request is vague and ambiguous, including with respect to the meaning of the terms “Identify,” and “establishing.” Plaintiff further objects to this Request because it is premature and discovery is ongoing. Plaintiff also objects that this Request calls for information protected by attorney-client privilege, attorney work product doctrine and/or other applicable privilege. Plaintiff also objects to this Request on the ground that it unduly burdens its associational rights under the First Amendment and the rights of its members and donors. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 462 (1958); *NAACP v. Button*, 371 U.S. 415, 429 (1963); *Buckley v. Valeo*, 424 U.S. 1, 64–68 (1976); *Perry v. Schwarzenegger*, 591 F.3d 1126, 1142 & fn. 9 (9th Cir. 2009); *AFL-CIO v. FEC*, 333 F.3d 168, 175 (D.C. Cir. 2003); *Black Panther Party v. Smith*, 661 F.2d 1243, 1264 (D.C. Cir. 1981), *cert. granted and vacated as moot*, 458 U.S. 1118 (1982); *Intl. Socy. for Krishna Consciousness, Inc. v. Lee*, 75 CIV. 5388 (MJL), 1985 WL 315, at *8 (S.D.N.Y. Feb. 28, 1985).

Without waiving any of these objections, Plaintiff expects to offer evidence that it has members residing in certain of the challenged districts at issue in this

litigation.

***BEGIN HIGHLY CONFIDENTIAL — ATTORNEYS' EYES ONLY**

DESIGNATION *

**FIRST SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 6
(NOVEMBER 23, 2022):**

Plaintiff incorporates by reference the above-stated General and Specific Objections, September 6, 2022 response as it fully set forth herein. Subject to Defendant's agreement that if Plaintiff names one individual the Defendant will not challenge Plaintiff's associational standing other than to challenge the standing of the named individual and, as limited by, and without waiver of the foregoing objections, Plaintiff responds as follows:



***END HIGHLY CONFIDENTIAL — ATTORNEYS' EYES ONLY**

DESIGNATION *

INTERROGATORY NO. 7:

Explain how individuals or organizations, if any, become members of the Organizational Plaintiffs and list all requirements of membership for each.

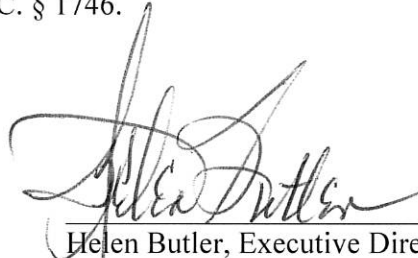
OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 7:

Plaintiff incorporates herein by reference its Objections to Instructions and Definitions above as though fully set forth herein. Plaintiff further objects to this Interrogatory on the grounds that it is overbroad and unduly burdensome. Plaintiff

**VERIFICATION OF FIRST SUPPLEMENTAL RESPONSES TO
INTERROGATORIES**

I, Helen Butler, am over the age of 18 years and am competent to execute this verification on behalf of the Georgia Coalition for the People's Agenda, an organization, as its Executive Director.

I believe, based on reasonable inquiry, that the foregoing supplemental responses to the Interrogatories are true and correct to the best of my knowledge, information, and belief. I verify as such under penalty of perjury under 28 U.S.C. § 1746.

A handwritten signature in black ink, appearing to read 'Helen Butler', is written over a horizontal line.

Helen Butler, Executive Director
Georgia Coalition for the People's Agenda,
Inc.

Dated this 22nd day of November, 2022

Exhibit 8

**IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF GEORGIA ATLANTA DIVISION**

GEORGIA STATE CONFERENCE OF THE)	
NAACP, et al.)	
)	
<i>Plaintiffs,</i>	)	Case No. 1:21-CV-5338-
	)	ELB-SCJ-SDG
v.)	
)	
STATE OF GEORGIA, et al.)	
)	
<i>Defendants.</i>)	
_____	)	Case No. 1:22-CV-00090-
COMMON CAUSE, et al.,	)	ELB-SCJ-SDG
)	
<i>Plaintiffs,</i>)	
v.)	
)	
BRAD RAFFENSPERGER)	
)	
<i>Defendant.</i>)	

**GALEO LATINO COMMUNITY DEVELOPMENT FUND, INC.’S
FIRST SUPPLEMENTAL OBJECTIONS AND RESPONSES TO
DEFENDANTS’ FIRST SET OF INTERROGATORIES, REQUESTS FOR
PRODUCTION OF DOCUMENTS, AND REQUESTS FOR ADMISSION**

Pursuant to Rules 33, 34, and 36 of the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the Northern District of Georgia, Plaintiff, GALEO Latino Community Development Fund, Inc. (“GALEO LCDF”) as an organization (“Plaintiff”) responds and objects to the First Sets of Interrogatories, Requests for Production of Documents, and Requests for Admission

Subject to the Objections to Instructions and Definitions and the specific objections to this Interrogatory set forth above, Plaintiff responds as follows: As of the date of this response, Plaintiff has altered its “election-related” activities due to the adoption of the Redistricting Plans, but the vagueness and ambiguity of “discontinued” and “election-related” activities prevent Plaintiff from providing an affirmative or negative response. Because the negative impacts and consequences of the Redistricting Plans are ongoing, Plaintiff reserves the right to supplement this response.

INTERROGATORY NO. 6:

Identify all “members” of the Organizational Plaintiffs that Organizational Plaintiffs plan to rely on for purposes of establishing associational standing.

OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 6:

Plaintiff incorporates herein by reference its Objections to Instructions and Definitions above as though fully set forth herein. Plaintiff further objects to this Interrogatory on the grounds that it is overbroad and unduly burdensome. Plaintiff objects to this Request on the grounds that this request is vague and ambiguous, including with respect to the meaning of the terms “Identify,” and “establishing.” Plaintiff further objects to this Request because it is premature and discovery is ongoing. Plaintiff also objects that this Request calls for information protected by attorney-client privilege, attorney work product doctrine and/or other applicable

privilege. Plaintiff also objects to this Request on the ground that it unduly burdens its associational rights under the First Amendment and the rights of its members and donors. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 462 (1958); *NAACP v. Button*, 371 U.S. 415, 429 (1963); *Buckley v. Valeo*, 424 U.S. 1, 64–68 (1976); *Perry v. Schwarzenegger*, 591 F.3d 1126, 1142 & fn. 9 (9th Cir. 2009); *AFL-CIO v. FEC*, 333 F.3d 168, 175 (D.C. Cir. 2003); *Black Panther Party v. Smith*, 661 F.2d 1243, 1264 (D.C. Cir. 1981), *cert. granted and vacated as moot*, 458 U.S. 1118 (1982); *Intl. Socy. for Krishna Consciousness, Inc. v. Lee*, 75 CIV. 5388 (MJL), 1985 WL 315, at *8 (S.D.N.Y. Feb. 28, 1985).

Without waiving any of these objections, Plaintiff expects to offer evidence that it has members residing in certain of the challenged districts at issue in this litigation.

BEGIN HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY DESIGNATION

FIRST SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 6 (NOVEMBER 23, 2022):

Plaintiff incorporates by reference the above-stated General and Specific Objections, September 6, 2022 response as it fully set forth herein. Subject to Defendant’s agreement that if Plaintiff names one individual the Defendant will not challenge Plaintiff’s associational standing other than to challenge the standing of the named individual and, as limited by, and without waiver of the foregoing

objections, Plaintiff responds as follows:



***END HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY DESIGNATION ***

INTERROGATORY NO. 7:

Explain how individuals or organizations, if any, become members of the Organizational Plaintiffs and list all requirements of membership for each.


OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 7:

Plaintiff incorporates herein by reference its Objections to Instructions and Definitions above as though fully set forth herein. Plaintiff further objects to this Interrogatory on the grounds that it is overbroad and unduly burdensome. Plaintiff further objects to this Interrogatory on the grounds that the term “requirements” is vague and ambiguous. Plaintiff also objects to this Interrogatory because it purports to impose an obligation on the Plaintiff to prepare a “list” which does not already exist and which is greater or more burdensome than the requirements of the Federal Rules of Civil Procedure and the Local Rules. Plaintiff also objects that this Request calls for information protected by attorney-client privilege, attorney work product doctrine and/or other applicable privilege. Plaintiff also objects to this Request on the ground that it unduly burdens its associational rights under the First Amendment and the rights of its members and donors. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 462 (1958); *NAACP v. Button*, 371 U.S. 415, 429 (1963); *Buckley v. Valeo*, 424

**VERIFICATION OF FIRST SUPPLEMENTAL RESPONSES TO
INTERROGATORIES**

I, Jerry Gonzalez, am over the age of 18 years and am competent to execute this verification on behalf of GALEO Latino Community Development Fund, Inc., an organization, as its Chief Executive Officer.

I believe, based on reasonable inquiry, that the foregoing supplemental responses to the Interrogatories are true and correct to the best of my knowledge, information, and belief. I verify as such under penalty of perjury under 28 U.S.C. § 1746.



Jerry Gonzalez, Chief Executive Officer
GALEO Latino Community Development
Fund, Inc.

Dated this 23 day of November, 2022

Exhibit 9

**IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF GEORGIA ATLANTA DIVISION**

GEORGIA STATE CONFERENCE OF THE)	
NAACP, et al.)	
)	
<i>Plaintiffs,</i>	)	Case No. 1:21-CV-5338-
	)	ELB-SCJ-SDG
v.)	
)	
STATE OF GEORGIA, et al.)	
)	
<i>Defendants.</i>)	
_____	)	Case No. 1:22-CV-00090-
COMMON CAUSE, et al.,	)	ELB-SCJ-SDG
)	
<i>Plaintiffs,</i>)	
v.)	
)	
BRAD RAFFENSPERGER)	
)	
<i>Defendant.</i>)	

**GEORGIA STATE CONFERENCE OF THE NAACP’S FIRST
SUPPLEMENTAL OBJECTIONS AND RESPONSES TO DEFENDANTS’
FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION
OF DOCUMENTS, AND REQUESTS FOR ADMISSION**

Pursuant to Rules 33, 34, and 36 of the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the Northern District of Georgia, Plaintiff, Georgia State Conference of the NAACP, (“GA NAACP”) as an organization (“Plaintiff”) responds and objects to the First Sets of Interrogatories, Requests for Production of Documents, and Requests for Admission dated August

response.

INTERROGATORY NO. 6:

Identify all “members” of the Organizational Plaintiffs that Organizational Plaintiffs plan to rely on for purposes of establishing associational standing.

OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 6:

Plaintiff incorporates herein by reference its Objections to Instructions and Definitions above as though fully set forth herein. Plaintiff further objects to this Interrogatory on the grounds that it is overbroad and unduly burdensome. Plaintiff objects to this Request on the grounds that this request is vague and ambiguous, including with respect to the meaning of the terms “Identify,” and “establishing.” Plaintiff further objects to this Request because it is premature and discovery is ongoing. Plaintiff also objects that this Request calls for information protected by attorney-client privilege, attorney work product doctrine and/or other applicable privilege. Plaintiff also objects to this Request on the ground that it unduly burdens its associational rights under the First Amendment and the rights of its members and donors. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 462 (1958); *NAACP v. Button*, 371 U.S. 415, 429 (1963); *Buckley v. Valeo*, 424 U.S. 1, 64–68 (1976); *Perry v. Schwarzenegger*, 591 F.3d 1126, 1142 & fn. 9 (9th Cir. 2009); *AFL-CIO v. FEC*, 333 F.3d 168, 175 (D.C. Cir. 2003); *Black Panther Party v. Smith*, 661 F.2d 1243, 1264 (D.C. Cir. 1981), *cert. granted and vacated as moot*, 458 U.S. 1118 (1982); *Intl. Socy.*

for Krishna Consciousness, Inc. v. Lee, 75 CIV. 5388 (MJL), 1985 WL 315, at *8 (S.D.N.Y. Feb. 28, 1985).

Without waiving any of these objections, Plaintiff expects to offer evidence that it has members residing in certain of the challenged districts at issue in this litigation.

***BEGIN HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY DESIGNATION ***

FIRST SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 6 (NOVEMBER 23, 2022):

Plaintiff incorporates by reference the above-stated General and Specific Objections, September 6, 2022 response as it fully set forth herein. Subject to Defendant’s agreement that if Plaintiff names one individual the Defendant will not challenge Plaintiff’s associational standing other than to challenge the standing of the named individual and, as limited by, and without waiver of the foregoing objections, Plaintiff responds as follows:



***END HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY DESIGNATION ***


INTERROGATORY NO. 7:

Explain how individuals or organizations, if any, become members of the Organizational Plaintiffs and list all requirements of membership for each.

**VERIFICATION OF FIRST SUPPLEMENTAL RESPONSES TO
INTERROGATORIES**

I, Gerald Griggs, am over the age of 18 years and am competent to execute this verification on behalf of the Georgia State Conference of the NAACP, an organization, as its President.

I believe, based on reasonable inquiry, that the foregoing supplemental responses to the Interrogatories are true and correct to the best of my knowledge, information, and belief. I verify as such under penalty of perjury under 28 U.S.C. § 1746.



Gerald Griggs, President
Georgia State Conference of the NAACP

Dated this 22 day of November, 2022

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GEORGIA STATE CONFERENCE OF THE)
NAACP, et al.)

Plaintiffs,)

v.)

STATE OF GEORGIA, et al.)

Defendants.)

COMMON CAUSE, et al.,)

Plaintiffs,)

v.)

BRAD RAFFENSPERGER)

Defendant.)

Case No. 1:21-CV-5338-
ELB-SCJ-SDG

Case No. 1:22-CV-00090-
ELB-SCJ-SDG

**DECLARATION OF JULIE M. HOUK IN SUPPORT OF PLAINTIFFS’
RESPONSE TO DEFENDANTS’ MOTION FOR
SUMMARY JUDGMENT**

I, Julie M. Houk, declare as follows:

1. I am an attorney licensed to practice law in the District of Columbia, California, New Hampshire, Massachusetts and Illinois.¹ I have been admitted *pro hac vice* to represent Plaintiffs, the Georgia State Conference of the NAACP (“GA NAACP”); GALEO Latino Community Development Fund, Inc. (“GALEO”); and Georgia Coalition for the People’s Agenda (“GCPA”) (collectively, “Plaintiffs”) in this action and am employed by the Lawyers’ Committee for Civil Rights Under Law.

2. I am over the age of eighteen, have personal knowledge of the matters stated herein and am competent to make this declaration. I submit this declaration in support of Plaintiffs’ response to Defendants’ motion for summary judgment.

3. On August 5, 2022, Defendants served discovery requests on the three Plaintiff organizations which included Interrogatory Number 6. Interrogatory No. 6 stated: “Identify all ‘members’ of the Organizational Plaintiffs that

¹ I am currently registered as voluntarily inactive in Illinois.

Organizational Plaintiffs plan to rely on for purposes of establishing associational standing.” *See* Exhibit 1 to Declaration of Crinesha Berry².

4. On September 6, 2022, each Plaintiff served a verified response to Interrogatory Number 6. The response included objections, including specific objections based upon the First Amendment associational privilege due to Plaintiffs’ concerns about the chilling effect on their organizations and members if they publicly disclosed the identities of their rank-and-file members in response to this Interrogatory. *See* Exhibits 2-4 to Declaration of Crinesha Berry (“Exhibits 2-4”).

5. Plaintiffs also objected to this Interrogatory on the grounds that it was premature and because it called for the disclosure of attorney work product and trial preparation information by demanding the identities of the organizational members it “planned” to rely upon for associational standing. *See*, Exhibits. 2-4.

6. Notwithstanding Plaintiffs’ objections to this Interrogatory, Plaintiffs served verified responses which stated they would “offer evidence that it has members residing in certain of the challenged districts at issue in this litigation.” *See*, Exhibits. 2-4.

² All exhibits referenced within this declaration have been filed as exhibits to the Declaration of Crinesha Berry.

7. Subsequently, Defendants' counsel sent a letter on September 13, 2022 objecting to certain discovery responses, including Plaintiffs' responses to Interrogatory No. 6. *See* Exhibit 5 to Declaration of Crinesha Berry.

8. Following the service of this letter, Plaintiffs' counsel engaged in a series of telephonic and written efforts to meet and confer to resolve the discovery dispute informally without having to seek the assistance of the court between September 22, 2022 and November 21, 2022.

9. During these meet and confer efforts, Plaintiffs' counsel reiterated their objections to identifying their respective organizations' members residing in challenged districts at issue in the litigation based upon the First Amendment associational privilege and because Plaintiffs could establish associational standing based upon other evidence, such as the testimony of the principles of the organization attesting to the fact the organizations have members in the relevant districts.

10. Ultimately, counsel for the parties resolved the dispute by agreeing that each Plaintiff could supplement their prior responses to Interrogatory No. 6 by identifying only one (1) member for each of the three Plaintiff organizations who resided in any challenged district at issue, rather than identifying a member

residing in each of the challenged districts at issue. *See* Exhibit 6 to Declaration of Crinesha Berry at p. 1 (“Exhibit 6”).

11. Defendants’ counsel agreed to limit any challenge to the Plaintiffs’ associational standing based upon the individual standing of the disclosed single member of each of the three organizations. *See* Ex. 6 at p. 1.

12. Defendants’ counsel further agreed that Plaintiffs could identify different members than the single members identified in response to this discovery dispute at a later date – including after discovery deadlines - so long as Plaintiffs’ counsel agreed they would permit the Defendants to conduct additional discovery concerning any newly identified individual members. *See* Ex. 6 at 1.

13. I understood the agreement to mean that each organizational Plaintiff would identify only one of its members in response to Interrogatory No. 6 and that Defendants would limit any challenges to the organization’s associational standing for the complaint as a whole based upon whether that individual member had standing to challenge the redistricting map(s) for the district(s) where that member was residing.

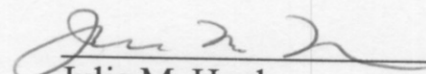
14. Thereafter, Plaintiffs’ counsel served supplemental responses to Interrogatory No. 6 on Defendants’ counsel for each of the three Plaintiff organizations. *See*, Exhibits 7-9 to Declaration of Crinesha Berry.

15. At no time did Plaintiffs waive their initial responses and objections to Interrogatory No. 6, including their verified responses that each of the organizational Plaintiffs have members in certain of the challenged districts. By supplementing their original response with the disclosure of one member for each organization, Plaintiffs assumed the dispute had been resolved as confirmed by the agreement set forth in the email exchanges in Exhibit 6 at p. 1.

16. In light of this agreement, the Plaintiffs did not identify additional members by name in response to Interrogatory No. 6. However, Plaintiffs do have members in the relevant challenged and illustrative districts sufficient to establish associational standing and the principals of the organizations are separately submitting declarations attesting to this fact in response to Defendants' motion for summary judgment.

17. If ordered to do so, the organizational Plaintiffs will identify member(s) in each of the relevant challenged and illustrative districts to the Court for *in camera* review, pursuant to a reasonable protective order, or other orders of the Court. *See* Declaration of Gerald Griggs; Declaration of Gerardo Gonzalez; Declaration of Helen Butler.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed at Washington, DC on this 26th day of April, 2023.


Julie M. Houk

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GEORGIA STATE CONFERENCE OF THE)
NAACP, et al.)

Plaintiffs,)

v.)

STATE OF GEORGIA, et al.)

Defendants.)

_____)
COMMON CAUSE, et al.,)

Plaintiffs,)

v.)

BRAD RAFFENSPERGER)

Defendant.)

Case No. 1:21-CV-5338-
ELB-SCJ-SDG

Case No. 1:22-CV-00090-
ELB-SCJ-SDG

**DECLARATION OF JACOB CANTER IN SUPPORT OF PLAINTIFFS’
RESPONSE TO DEFENDANTS’ MOTION FOR
PARTIAL SUMMARY JUDGMENT**

I, Jacob Canter, declare:

1. I am an associate employed by Crowell & Moring LLP and counsel to Plaintiffs Galeo Latino Community Development Fund, Inc.; Georgia Coalition for the People's Agenda, Inc.; and Georgia State Conference of the NAACP. The matters set forth herein are true and correct of my own personal knowledge and, if

called as a witness, I could and would testify competently thereto. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

2. Exhibit 1 is a true and correct copy of Gerald Griggs's Declaration of April 24, 2023.

3. Exhibit 2 is a true and correct copy of Dr. Moon Duchin's Expert Report dated January 13, 2023.

4. Exhibit 3 is a true and correct copy of the Declaration of Gerardo Gonzalez dated April 20, 2023.

5. Exhibit 4 is a true and correct copy of the Declaration of Helen Butler dated April 25, 2023.

6. Exhibit 5 are true and correct copies of excerpts from the January 13, 2023 Deposition of Helen Butler.

7. Exhibit 6 are true and correct copies of excerpts from the January 13, 2023 Deposition of Cynthia Battles.

8. Exhibit 7 are true and correct copies of excerpts from the January 18, 2023 Deposition of Gerald Griggs.

9. Exhibit 8 are true and correct copies of excerpts from the January 11, 2023 Deposition of Gerardo Gonzalez.

10. Exhibit 9 is a true and correct copy of Peyton McCrary's expert report dated January 13, 2023.

11. Exhibit 10 is a true and correct copy of Joseph Bagley's expert report dated January 13, 2023.

12. Exhibit 11 is a true and correct copy of <https://www.legis.ga.gov/legislation/60894> related to the Congressional map, was passed by the Senate on November 9, 2021.

13. Exhibit 12 is a true and correct copy of <https://www.legis.ga.gov/legislation/60894/>.

14. Exhibit 13 is a true and correct copy of <https://www.legis.ga.gov/legislation/60897>.

15. Exhibit 14 is a true and correct copy of Defendants' Supplemental Responses to Plaintiffs' Second Set of Interrogatories dated December 23, 2022.

16. Exhibit 15 are true and correct copies of excerpts from the January 6, 2023 Deposition of Gina Wright.

17. Exhibit 16 are true and correct copies of excerpts from the February 24, 2023 Deposition of Robert Strangia.

18. Exhibit 17 are true and correct copies of excerpts from the March 17, 2023 Deposition of Daniel O'Connor.

19. Exhibit 18 are true and correct copies of excerpts from the February 28, 2023 Deposition of Moon Duchin, Ph.D.

20. Exhibit 19 are true and correct copies of excerpts from the January 20, 2023 Deposition of John Kennedy.

21. Exhibit 20 is a true and correct copy of the Moon Duchin, Ph.D Rebuttal Report dated February 15, 2023.

22. Exhibit 21 are true and correct copies of excerpts from the March 14, 2023 Deposition of John Morgan.

23. Exhibit 22 is a true and correct copy of the Expert Report of John Morgan dated December 5, 2022.

24. Exhibit 23 is a true and correct copy of the Expert Report of Benjamin Schneer dated January 12, 2023.

25. Exhibit 24 is a true and correct copy of the expert report of John Alford dated February 10, 2023.

26. Exhibit 25 are true and correct copies of excerpts from the March 2, 2023 Deposition of John Alford.

27. Exhibit 26 are true and correct copies of excerpts from the March 14, 2023 Deposition of Benjamin Schneer.

28. Exhibit 27 is a true and correct copy of Dr. Moon Duchin's Errata dated April 26, 2023.

29. Exhibit 28 is a true and correct copy of Benjamin Schneer's Errata dated April 13, 2023.

30. Exhibit 29 are true and correct copies of excerpts from the February 28, 2023 Deposition of Joseph Bagley.

31. Exhibit 30 is a true and correct copy of John Morgan's Expert Rebuttal Report dated February 15, 2023.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed in San Francisco, California, on this 26th day of April, 2023.

/s/ Jacob Canter

Jacob Canter

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GEORGIA STATE CONFERENCE OF THE NAACP, et al.)	
)	
<i>Plaintiffs,</i>	)	Case No. 1:21-CV-5338-ELB-
	)	SCJ-SDG
v.)	
)	
STATE OF GEORGIA, et al.)	
)	
<i>Defendants.</i>)	
)	
<hr style="width: 40%; margin-left: 0;"/>)	
COMMON CAUSE, et al.,	)	Case No. 1:22-CV-00090-
	)	ELB-SCJ-SDG
<i>Plaintiffs,</i>)	
v.)	
)	
BRAD RAFFENSPERGER)	
)	
<i>Defendant.</i>		

DECLARATION OF GERALD GRIGGS

I, Gerald Griggs, having been duly sworn, do hereby swear and affirm as follows:

1. I am over the age of 18 years, have personal knowledge of the matters stated herein, am competent to make this declaration, and would testify to the same if called as a witness in Court.

2. I am the President of the Georgia State Conference of the NAACP (“GA NAACP”).

3. The NAACP was founded on February 12, 1909, and is the oldest, largest, and most widely recognized grassroots-based civil rights organization.

4. The GA NAACP, a unit of the National NAACP, is the oldest and one of the largest, most significant organizations promoting and protecting the civil rights of African Americans and other racial and ethnic minorities in Georgia.

5. The GA NAACP is a non-partisan, interracial, nonprofit membership organization with a mission to “eliminate racial discrimination through democratic processes and ensure the equal political, educational, social, and economic rights of all persons, in particular African Americans.” Protecting and promoting the voting rights of Black voters, other voters of color, and underserved communities is essential to this mission.

6. The GA NAACP is dedicated to protecting voting rights through legislative advocacy, communication, and outreach, including work to promote voter registration, voter education, GOTV efforts, and election

protection. The GA NAACP also advocates for census participation and fair redistricting maps.

7. The GA NAACP has over 180 branches and chapters throughout the state.

8. At this time, based upon internal, confidential membership information, the GA NAACP has nearly 10,000 active members in Georgia.

9. At this time, based upon internal, confidential membership information, the GA NAACP has members in at least 120 counties in Georgia. Those counties include:

1. Appling
2. Baldwin
3. Barrow
4. Bartow
5. Ben Hill
6. Bibb
7. Bleckley
8. Brooks
9. Bryan
10. Bulloch
11. Burke
12. Butts

13. Camden
14. Candler
15. Carroll
16. Catoosa
17. Chatham
18. Cherokee
19. Clarke
20. Clayton
21. Cobb
22. Coffee
23. Colquitt
24. Columbia
25. Coweta
26. Crawford
27. Crips
28. Dawson
29. Decatur
30. DeKalb
31. Dodge
32. Dooly
33. Dougherty

34.Douglas

35.Effingham

36.Elbert

37.Emanuel

38.Evans

39.Fayette

40.Floyd

41.Forsyth

42.Fulton

43.Glynn

44.Gordon

45.Grady

46.Greene

47.Gwinnett

48.Habersham

49.Hall

50.Hancock

51.Harris

52.Hart

53.Heard

54.Henry

55.Houston

56.Irwin

57.Jeff Davis

58.Jefferson

59.Jones

60.Lamar

61.Laurens

62.Lee

63.Liberty

64.Lincoln

65.Long

66.Lowndes

67.Lumpkin

68.McDuffie

69.McIntosh

70.Macon

71.Meriwether

72.Mitchell

73.Monroe

74.Montgomery

75.Morgan

76.Muscogee

77.Newton

78.Oconee

79.Paulding

80.Peach

81.Pierce

82.Pike

83.Polk

84.Pulaski

85.Putnam

86.Quitman

87.Randolph

88.Richmond

89.Rockdale

90.Schley

91.Screven

92.Seminole

93.Spaulding

94.Stewart

95.Sumter

96.Tattnall

97. Taylor

98. Telfair

99. Terrell

100. Thomas

101. Tift

102. Toombs

103. Treutlen

104. Troup

105. Turner

106. Twiggs

107. Upson

108. Walker

109. Walton

110. Ware

111. Warren

112. Washington

113. Wayne

114. Webster

115. Wheeler

116. Whitfield

117. Wilcox

118. Wilkes

119. Wilkinson

120. Worth

10. I have reviewed current internal, confidential membership information and have determined that at least one GA NAACP member resides in each of the districts challenged by Plaintiffs as racial gerrymanders.

11. Based on the internal, confidential membership information, the number of members in each of the enacted districts challenged as racial gerrymanders is below:

1. Congressional District 2: 749
2. Congressional District 3: 549
3. Congressional District 4: 682
4. Congressional District 6: 148
5. Congressional District 8: 739
6. Congressional District 10: 398
7. Congressional District 13: 836
8. Congressional District 14: 291
9. Senate District 1: 209
10. Senate District 2: 394
11. Senate District 4: 309
12. Senate District 14: 58

13.Senate District 17: 215

14.Senate District 26: 208

15.Senate District 48: 19

16.Senate District 56: 61

17.House District 44: 19

18.House District 48: 18

19.House District 49: 13

20.House District 52: 18

21.House District 104: 11

12. For each cluster of districts challenged under Section 2 of the Voting Rights Act, I reviewed internal, confidential membership information which confirms that Georgia NAACP members reside in majority-white districts in the enacted plan but would reside in majority-minority districts in one of the Plaintiffs' mapping expert's illustrative plans. At this time, based on internal, confidential membership information—and sorted by the mapping expert's illustrative plans—the number of such members in each cluster of districts is as follows:

1. Congressional Alt 1: 904
2. SD Alt 1 Atlanta Cluster: 361
3. SD Alt 2 Atlanta Cluster: 201
4. SD Alt 1 Gwinnett: 174

5. SD Alt 1 East Black Belt: 266
6. SD Alt 2 East Black Belt: 147
7. HD Alt 1 Atlanta: 82
8. HD Alt 2 Atlanta: 74
9. HD Alt 1 Southwest: 34
10. HD Alt 1 East Black Belt: 101
11. HD Alt 2 East Black Belt: 101
12. HD Alt 1 Southeast: 39
13. HD Alt 2 Southeast: 81

13. All NAACP units, including the GA NAACP, guard our membership information zealously. Where an individual's membership and association with the NAACP is public, harassment and threats of violence are routine. As the President of the GA NAACP, I have willingly made my identity known in order to facilitate the work of that office. But it has come at some cost. I have personally been threatened, harassed and verbally assaulted because of my known association with the GA NAACP. Because of these experiences I have guarded the identities of our members to the greatest extent possible.

14. Being forced to disclose the identities of rank and file GA NAACP members would be a violation of their trust and would expose those members directly to the threats, intimidation, and harassment I face. Our

general body members have joined the GA NAACP for a myriad of reasons, but have not, in doing so, asked to have their association with the GA NAACP made public. Being forced to disclose the identities of GA NAACP's general body members would discourage members from continuing their membership. It would also likely dissuade individuals from joining the GA NAACP in the future. Disclosing member identities would thus both chill the protected associational rights of our members and substantially limit the ability of the GA NAACP and NAACP to fulfill its mission and engage in advocacy and impact litigation on behalf of its members.

15. In bringing this litigation, I understand that the GA NAACP stands in the shoes of its members for associational standing purposes. As such, as President of the GA NAACP, I can represent that the organization has at least one member in the aforementioned districts and clusters.

16. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 21st day of April 2023 in Tucker, Georgia.



Gerald Griggs
President

Georgia State Conference of the NAACP

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GEORGIA STATE CONFERENCE OF THE)
NAACP, et al.)

Plaintiffs,)

v.)

STATE OF GEORGIA, et al.)

Defendants.)

_____)

COMMON CAUSE, et al.,)

Plaintiffs,)

v.)

BRAD RAFFENSPERGER)

Defendant.)

Case No. 1:21-CV-5338-
ELB-SCJ-SDG

Case No. 1:22-CV-00090-
ELB-SCJ-SDG

DECLARATION OF GERARDO ELEAZAR GONZALEZ

Pursuant to 28 U.S.C. § 1746, I, Gerardo Eleazar Gonzalez, declare as follows:

1. I have personal knowledge of the matters stated herein and would testify to the same if called as a witness in Court.
2. I am the Chief Executive Officer (CEO) of the GALEO Latino Community Development Fund, Inc. (“GALEO”) and am knowledgeable about its operations.

3. GALEO was founded in 2004 and works to “increase civic engagement and leadership development of the Latinx community across Georgia.”¹

4. Protecting and promoting the voting rights of Georgia’s Latinx U.S. citizens is essential to this mission. The organization devotes significant time and resources to conducting voter registration drives, voter outreach, assistance with voter ID and “Get Out The Vote” efforts to increase turnout of Latinx voters, and advocacy for census participation and fair redistricting maps.

5. Today, GALEO has over 230 members across Georgia.

6. Based upon a review of internal, confidential membership information, GALEO has members in over 35 counties within the state of Georgia, including:

1. Baldwin
2. Barrow
3. Bibb
4. Bulloch
5. Carroll
6. Chatham
7. Cherokee
8. Clarke
9. Clayton

¹ GALEO’s mission statement can be found at <http://galeo.org/about-us/>.

10.Cobb

11.Columbia

12.Coweta

13.Crisp

14.Dawson

15.DeKalb

16.Douglas

17.Fayette

18.Floyd

19.Forsyth

20.Fulton

21.Gwinnett

22.Hall

23.Haralson

24.Henry

25.Houston

26.Jackson

27.Laurens

28.Long

29.Murray

30.Muscogee

31.Newton

32.Paulding

33.Peach

34.Pol

35.Richmond

36.Toombs

37.Troup

38.Whitfield

7. Based upon a review of internal, confidential membership information, GALEO has members in over 70 cities within the state of Georgia:

1. Acworth

2. Alpharetta

3. Athens

4. Atlanta

5. Auburn

6. Augusta

7. Austell

8. Avondale Estates

9. Bethlehem

10.Bonaire

11.Bremen

12.Brookhaven

13.Buford

14.Byron

15.Carrollton

16.Chatsworth

17.Clarkston

18.College Park

19.Columbus

20.Commerce

21.Conyers

22.Cordele

23.Covington

24.Cumming

25.Dallas

26.Dalton

27.Dawsonville

28.Decatur

29.Doraville

- 30.Douglas
- 31.Douglasville
- 32.Duluth
- 33.Dunwoody
- 34.East Dublin
- 35.Fairburn
- 36.Fayetteville
- 37.Flowery Branch
- 38.Forest Park
- 39.Gainesville
- 40.Jefferson
- 41.Johns Creek
- 42.Jonesboro
- 43.Kennesaw
- 44.Lagrange
- 45.Lawrenceville
- 46.Lilburn
- 47.Ludowici
- 48.Lyons
- 49.Mableton

- 50.Macon
- 51.Marietta
- 52.Midland
- 53.Milledgeville
- 54.Morrow
- 55.Newnan
- 56.Norcross
- 57.Oakwood
- 58.Peachtree Corners
- 59.Pooler
- 60.Powder Springs
- 61.Riverdale
- 62.Rockmart
- 63.Rome
- 64.Roswell
- 65.Savannah
- 66.Scottdale
- 67.Senoia
- 68.Smyrna
- 69.Snellville

70.Statesboro

71.Stockbridge

72.Stone Mountain

73.Sugar Hill

74.Tucker

75.Villa Rica

76.Warner Robins

77.Winder

78.Woodstock

8. Based upon a review of internal, confidential membership information, GALEO has at least one member in the following enacted districts challenged as racial gerrymanders:

1. Congressional District 2
2. Congressional District 3
3. Congressional District 4
4. Congressional District 6
5. Congressional District 8
6. Congressional District 10
7. Congressional District 13
8. Congressional District 14

9. Senate District 2
10. Senate District 4
11. Senate District 14
12. Senate District 48
13. House District 44
14. House District 48
15. House District 52
16. House District 104.

9. GALEO maintains its member records as confidential in an effort to ensure that its rank-and-file members are not subjected to doxxing, harassment, intimidation or other adverse ramifications due to the exercise of their right to freedom of association with GALEO and its members. GALEO has received death threats and threats of violence, some of which GALEO reported to law enforcement—threats that GALEO wants to shield its members from.

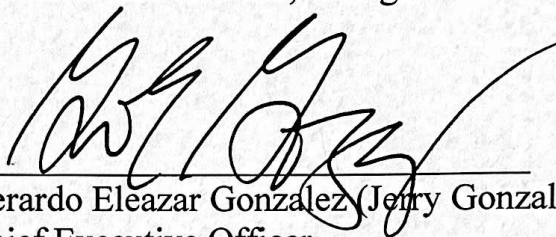
10. GALEO is also concerned about the chilling effect that disclosure of its member lists, including the identities of members who reside in certain challenged districts, would have on members' willingness to continue to be a member of the organization and to support the organization's mission and work. If GALEO was required to publicly identify all of its members residing in challenged districts, it would also chill GALEO's ability to participate in impact litigation because of its

concerns about the potential doxxing, harassment, violence, or retaliation against its rank-and-file members.

11. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

FURTHER, AFFIANT SAYETH NOT.

Executed this 20th day of April 2023 in Norcross, Georgia.

A handwritten signature in black ink, appearing to read 'Gerardo Gonzalez', written over a horizontal line.

Gerardo Eleazar Gonzalez (Jerry Gonzalez)
Chief Executive Officer
GALEO Latino Community Development Fund
(aka GALEO)

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GEORGIA STATE CONFERENCE OF THE)
NAACP, et al.)

Plaintiffs,)

v.)

STATE OF GEORGIA, et al.)

Defendants.)

COMMON CAUSE, et al.,)

Plaintiffs,)

v.)

BRAD RAFFENSPERGER)

Defendant.)

Case No. 1:21-CV-5338-
ELB-SCJ-SDG

Case No. 1:22-CV-00090-
ELB-SCJ-SDG

DECLARATION OF HELEN BUTLER

Pursuant to 28 U.S.C. § 1746, I, Helen Butler, declare as follows:

1. I am the Executive Director of the Georgia Coalition for the People’s Agenda (“GCPA”), over 18 years of age and am competent to make this declaration.

2. I have personal knowledge of the matters stated herein and would testify to the same if called as a witness in Court.

3. The GCPA is a Georgia not-for-profit corporation with its principal place of business located in Atlanta, Georgia.

4. The GCPA encourages voter registration and participation, particularly among Black and other underrepresented communities. The GCPA's support of voting rights is central to its mission. The organization has committed and continues to commit, time, and resources to conducting voter registration drives, voter education, voter ID assistance, election protection, census participation, fair redistricting maps, other get out the vote ("GOTV") efforts in Georgia, such as "Souls to the Polls," "Pews to the Polls" and other initiatives designed to encourage voter turnout, and impact litigation involving voting rights issues.

5. The GCPA is a coalition of more than 30 organizations, which collectively have more than 5,000 individual members across the state of Georgia.

6. Based upon a review of internal, confidential membership information, GCPA has members in counties throughout the state of Georgia, including but not limited to:

a. Bibb

- b. Chatham
- c. Cobb
- d. Dekalb
- e. Douglas
- f. Fayette
- g. Fulton
- h. Henry
- i. Jeff Davis
- j. Rockdale
- k. Newton

7. Based upon a review of internal, confidential membership information, GCPA has members in cities throughout the state of Georgia, including but not limited to:

- a. Atlanta
- b. College Park
- c. Conyers
- d. Covington
- e. Douglasville
- f. Fayetteville

- g. Hampton
- h. Hazlehurst
- i. Lithonia
- j. Macon
- k. McDonough
- l. Savannah

8. Based upon a review of internal, confidential membership information, GCPA has at least one member in the following enacted districts challenged as racial gerrymanders:

- a. Congressional District 2
- b. Congressional District 3
- c. Congressional District 4
- d. Congressional District 8
- e. Congressional District 13
- f. Senate District 2
- g. Senate District 26

9. With respect to districts challenged under Section 2 of the Voting Rights Act, I reviewed internal, confidential membership information which confirms that GCPA has at least one member who resides in majority-white

Congressional district 3 in the enacted plan but would reside in majority-minority Congressional district 3 in one of Plaintiffs' mapping expert's illustrative plans.

10. GCPA maintains its member records as confidential in an effort to ensure that its rank-and-file members are not subjected to doxxing, harassment, intimidation, or other adverse ramifications due to the exercise of their right to freedom of association with GCPA and its members.

11. GCPA is also concerned about the chilling effect that disclosure of its member lists, including the identities of members who reside in certain challenged districts, would have on members' willingness to continue to be a member of the organization and to support the organization's mission and work, as well as GCPA's ability to attract new members. If GCPA was required to publicly identify all of its members residing in challenged districts, it would also chill GCPA's ability to participate in impact litigation because of its concerns about the potential doxxing, harassment, violence, or retaliation against its rank-and-file members.

12. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

FURTHER, AFFIANT SAYETH NOT.

Executed this 24th day of April 2023 in Atlanta, Georgia.

A handwritten signature in cursive script, appearing to read "Helen Butler", written over a horizontal line.

Helen Butler
Executive Director
Georgia Coalition for the Peoples' Agenda
(aka GCPA)

Georgia State Conference of The NAACP, et al. v. S

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION
GEORGIA STATE CONFERENCE OF THE)
NAACP, et al.,) Case No.
Plaintiffs,) 1:21-CV-5338-
v.) ELB-SCJ-SDG
STATE OF GEORGIA, et al.)
Defendants.)

COMMON CAUSE, et al.,)
Plaintiffs,) Case No.
v.) 1:22-CV-00090-
BRAD RAFFENSPERGER) ELB-SCJ-SDG
Defendant.)

The DEPOSITION of:
HELEN BUTLER
Being taken pursuant to stipulations herein:
Before Kathryn Taylor, CCR
FRIDAY, JANUARY 13, 2023
Commencing at 9:00 a.m.
All parties, including the court reporter, appeared by
videoconference.

1 Topic 1 will be one that is the nonfinancial
2 diversion, and Topic 2 is withdrawn. Does that
3 reflect your understanding of our agreement?

4 MS. BERRY: Yes. That's correct.

5 MR. TYSON: Okay. Great.

6 BY MR. TYSON:

7 Q. So, Ms. Butler, you are -- I'm going to --
8 now kind of a series of questions I'll ask for each
9 topic that's going to be kind of repetitive, but we ask
10 them each time. You're the designee for Topic 1; is
11 that correct?

12 A. That's correct.

13 Q. And I believe Ms. Battles is also designated
14 for Topic 1, right?

15 A. That's correct.

16 Q. Okay. Did you review any documents
17 specifically to get ready for Topic Number 1?

18 A. Not specific documents, no.

19 Q. Okay. And did you speak with anyone at the
20 Peoples' Agenda specifically to prepare for Topic 1?

21 A. No. Other than as I indicated before.

22 Q. Okay. So you're aware that the Peoples'
23 Agenda is alleging that it had to divert resources, or
24 nonfinancial resources, in order to respond to the
25 redistricting plans passed by the General Assembly; is

1 that right?

2 A. That's correct.

3 Q. Okay. What types of activities has the
4 Peoples' Agenda had to divert resources from as a
5 result of the redistricting maps?

6 A. Well, the Peoples' Agenda -- our goals and
7 activities that we do are more than just our civic
8 engagement where we do voter registration, voter
9 education, mobilization, or election-protection work.
10 We also do issue organizing around the criminal justice
11 system, around education equity, around economic
12 equity, and sometimes other issues with the Black
13 Women's Roundtable around issues that impact women.

14 So we do a lot of things. You know, we had
15 to assign -- and we have a very limited staff. And so
16 we had to assign and prioritize the activities of our
17 staff and volunteers that work with us to be able to
18 accomplish a lot of things that were impacted by the
19 redistricting. And that took our time and energies
20 away from doing these other activities. For instance,
21 we've been trying to get our citizen review boards
22 adopted throughout the state.

23 So we were able to do those activities to get
24 people engaged in the process. And we had to also try
25 to prioritize our efforts that we normally do in a

1 normal election cycle with voter registration,
2 education, mobilization, and election protection. And
3 mirror that with trying to accomplish educating the
4 public about the redistricting process, how it was
5 happening, how it would impact the communities. So we
6 had to really reorganize and reprioritize our limited
7 staff and volunteers that could do the work.

8 Q. And I definitely hear you in terms of
9 prioritizing. Are you able to identify what portions
10 of that prioritization were due to the redistricting
11 maps and what portions were due to other causes within
12 the Peoples' Agenda?

13 A. I don't know a basic percentage per se, but I
14 would say that a large portion of our activities had to
15 be diverted to holding different town hall hearings.
16 Trying -- Cindy had to spend most of her time at
17 hearings, trying to get people educated about the
18 process, how they could have an impact, trying to help
19 people know -- get tools to really draw their own maps
20 to be engaged in the redistricting process because it's
21 critical.

22 And as you know, Georgia -- since I've been
23 working in this field, Georgia has a history of
24 discriminatory maps that they draw that don't allow
25 communities of color to really be able to really select

1 people of their -- that will represent them based on
2 their issues and their community interests. So
3 therefore, that's why we had to allocate more time to
4 the redistricting process while still trying to do our
5 municipal elections at that time in 2021.

6 So a large portion of that, our time and
7 resources, were diverted to that. Doing the meetings,
8 developing materials, all of those things that we had
9 to do, that could have been spent on the other issues
10 that we do, like criminal justice, like education
11 equity, like improving our economic equity in the -- in
12 the state. So we could not do those effectively. We
13 had to devote more time to the redistricting process.

14 Q. Certainly. So I want to try to drill down a
15 little bit on the timeline of those activities. When
16 you were talking about engaging in the redistricting
17 process, are you referring to the time between when the
18 census information came out and the conclusion of the
19 special session, or in your mind, does the
20 redistricting process go beyond the special session?

21 A. Well, of course, in my mind, it starts with
22 the census in 2020 where we were working with getting
23 people engaged in the census and educating about the
24 census, how to do it, getting it filled out, getting
25 out people, making sure we had that. Then coming in

1 2021, where we knew that the laws -- where lines,
2 rather, would be redrawn to determine who gets to
3 represent us and who gets to decide on how much funds
4 come to our organizations and to our communities.

5 So to me, the redistricting process also --
6 as a part of that, we've had to now help people
7 understand what that process was. It wasn't very
8 transparent. So we had to make sure people knew when,
9 where, how to get engaged, how to provide testimony
10 within those situations at the hearings.

11 Also, we're continuously still doing it.
12 There are a lot of local maps that were redrawn, so
13 it's now educating the voters about who their new
14 representatives are, where the lines are, where the
15 precincts are being changed to. Those kinds of
16 activities are our ongoing part of the redistricting
17 process.

18 Q. Okay. That's really helpful. Thank you. So
19 trying to drill down again on timeline, what kind of
20 activities has the Peoples' Agenda had to divert
21 resources from after December 30th, 2021, when the
22 governor signed the redistricting plans?

23 A. Again, it's a lot of trying to help educate,
24 you know, not only with the redistricting plans, we had
25 SB 202 that changed election procedures, so you had to

1 talk about how the lines were, who your new
2 representatives are. There are seven -- approximately
3 seven million voters -- registered voters in Georgia,
4 which approximately 2 million are African American.
5 And that doesn't include other people of color that
6 needed to be educated about the changes, the lines, how
7 they were drawn, who would get to represent them, and
8 how it would impact our communities.

9 Q. Got it. And so when you're educating voters,
10 are you educating them at the same time about Senate
11 Bill 202 and the district changes after December 2021?

12 A. Not necessarily. So they -- you know, during
13 the election cycle, we talk about the new changes to
14 their districts. But the hearings that were done for
15 the redistricting were a little different than that.

16 Q. Okay. Makes sense. So let me talk a little
17 bit about, then, what the Peoples' Agenda has begun
18 doing or has started doing after December 2021. Are
19 there activities that the Peoples' Agenda engaged in
20 after December 2021 that were related to the
21 redistricting plans?

22 A. Again, with regards to the plans, we had to
23 educate people about those changes and the lines, how
24 that would impact them in terms of their new polling
25 locations, and in terms of who their representatives

1 are. We had an election, you know, after then. So we
2 had midterm elections that were impacted based on the
3 redrawing of those lines, what the -- who would be the
4 representatives and people needed to know those. So
5 we've been doing that, as well as there have been some
6 polling location changes that were impacted by that as
7 well.

8 Q. And so -- and I do want to say I know
9 everybody appreciates getting education to voters.
10 That's a very important task, so I'm very grateful for
11 that. Besides the voter education efforts since
12 December 2021, are there other programs or specific
13 activities the Peoples' Agenda has undertaken related
14 to redistricting?

15 A. I mean, you know, we have developed materials
16 that go along with that. We've given presentations,
17 those kind of things that take time away, to go to
18 community functions to talk about that where we could
19 talk about other things. So -- so our staff has to do
20 that.

21 Q. Okay. And I guess I want to understand, are
22 those -- are those things where you have to develop
23 materials or kind of take time from talking about other
24 topics, are those part of voter education or is that a
25 different activity in your mind?

1 A. I mean, it's all that --

2 MS. BERRY: I'm sorry, Helen. Really
3 quickly, I just want to object and clarify.
4 Bryan, when you say "in your mind," are you asking
5 Helen in her personal capacity or are we still
6 talking about Peoples' Agenda?

7 MR. TYSON: I'm still talking about Peoples'
8 Agenda, but let me ask the question a little
9 better and see if I can maybe clarify that. Thank
10 you, Crinesha.

11 BY MR. TYSON:

12 Q. So, Ms. Butler, what I'd like to understand
13 is you mentioned developing materials and taking time
14 away and presentations. Does that Peoples' Agenda
15 consider the presentations and the materials that are
16 being developed part of its voter education efforts?

17 A. I mean, it could be considered part of it,
18 but it's extra steps that we had to take that we could
19 be doing some other presentations on other goals and
20 activities within the organization. As I said, we have
21 a limited staff, and so we use a lot of volunteers. We
22 also have to redirect our volunteers to assist with
23 those activities.

24 So -- whereas, we could be doing other
25 issues. Like education is really critical. And my

1 personal and to the organization, education is one of
2 our critical issues that we work on. So those -- we
3 could be doing other things around education. But
4 instead, we are having to talk about and do things to
5 help people understand their new district line-ups,
6 what that means to them, what -- based on the
7 representation that they now have.

8 So those are additional things. But while it
9 is still voter education, but it's a little more
10 different and intense than we normally would probably,
11 say -- have to do with regards to talking about
12 redistricting, moving polling locations, and that kind
13 of thing.

14 Q. Okay. Now, I know you have been involved
15 around the states and redistricting for probably
16 multiple redistricting cycles at this point; is that
17 right?

18 A. Since 20 -- 2000, yes.

19 Q. Okay. And is it -- in your experience, and
20 in the work of the Peoples' Agenda, is educating voters
21 about new district lines something that has to happen
22 after each redistricting cycle?

23 A. It's something that we have to educate people
24 about. But, again, based on the way the districts are
25 drawn helps determine how much time you have to spend

1 on it and whether it adversely impacts your communities
2 and how you get that involved. Again, it's -- it's
3 more -- it was more intense to really be involved in
4 this and to get people engaged in the process so that
5 we could have fair maps and we could have
6 representation based on the results of the census.

7 Q. And you actually anticipated my next question
8 I was going to ask, which was that obviously the
9 Peoples' Agenda claims that the 2021 redistricting
10 plans are unlawful. Are there specific things that the
11 Peoples' Agenda is having to do in its communication to
12 voters regarding the -- the allegedly illegal nature of
13 the 2021 plans?

14 A. Well, as I said, to us, the -- our -- the
15 voting strength of a lot of people of color has been
16 diluted as a result of these maps, and we haven't had
17 the real opportunity to elect more people that
18 represent our interests and will do -- help to improve
19 our communities.

20 So it's moving people based on racial -- you
21 know, race that really helps to dilute our voting
22 strength. So that's why we feel that this is a
23 situation that we have to educate the voters on, that
24 voters have to be engaged in the process a little more
25 than we normally would.

1 Q. Okay. And just so I fully understand, you
2 mentioned that the maps dilute voting strength and so
3 you have to educate voters in a particular way. Are
4 there particular messages that the Peoples' Agenda
5 gives to voters to educate them about the results of
6 what the Peoples' Agenda says is the dilution?

7 A. Well, what we do is basically show them the
8 maps. And that's why I said we do presentations. We
9 develop presentations that we give. We have town halls
10 that we talk to people about how they would draw -- how
11 fair maps could be drawn as examples, you know, that
12 kind of thing. So that would be some of the activities
13 that we do.

14 Q. Okay. And that helps. Thank you. Do you
15 have a -- and you may not, so I want to preface this,
16 it's fine if you don't have an answer to this question.
17 But do you have a rough percentage of how much of the
18 Peoples' Agenda's time is being spent on issues related
19 to the 2021 redistricting plans versus its other
20 activities?

21 A. I don't have a rough percentage, but I do
22 know that, again, I've had to divert my staff's time,
23 had to divert our volunteers that work with us to this
24 to help us. Again, we are trying to reach people of
25 color, especially African Americans. And there are

1 approximately two million African Americans registered
2 to vote in the state of Georgia that are impacted by --
3 that are drawn -- impacted by these lines that are
4 drawn. So it's taking time for us to help educate
5 them.

6 Q. And which staff members of the Peoples'
7 Agenda have you had to reassign to tasks related to the
8 redistricting plans?

9 A. Of course, Cindy Battles, who's our policy
10 engagement director, our coordinators have to assist
11 with setting up town hall meetings and other activities
12 we do in other parts of the state. You know, we are
13 in -- not just in Metro Atlanta. We are in rural
14 Georgia with limited resources, which are much more
15 strict -- limited than in Metro Atlanta.

16 So it really puts an extra burden on us
17 trying to get those activities done in rural Georgia
18 versus Metro Atlanta. So it's those -- and our
19 volunteers that work with us and volunteer their time,
20 making the most use of their time to help us get the
21 messaging out, doing phone banking, texting to voters
22 to help them understand the differences and the
23 changes. Again, those activities could be done for
24 other good things that we want to accomplish as our
25 organizational goals.

1 Q. Yes. And that's -- actually was going to be
2 my next question. So you mentioned your coordinators
3 have to set up these town hall meetings. Are those
4 town hall meetings that would happen regardless of
5 redistricting, but the topic has to be about
6 redistricting?

7 A. No. They are not necessarily town halls that
8 we would have with the -- these are specifically
9 dedicated to the redistricting activities that we are
10 doing, not necessarily that.

11 Q. Okay.

12 A. You know, we do -- and I do want to be clear,
13 we do conduct town hall meetings sometimes, but we've
14 been doing, more frequently, town halls with regards to
15 redistricting to make sure, as I said, we reach the
16 people so that they know who is representing them and
17 how it impacts their communities.

18 Q. Okay. And then I had the same question. You
19 mentioned the phone banking and the texting programs.
20 Are those programs that the Peoples' Agenda engages in
21 regardless of redistricting, but has to give a
22 different message because of redistricting?

23 A. We engage in phone banking and texting as a
24 part of our voter registration activities. But, again,
25 the messaging has to be diverted to other things, not

1 issues like education equity, not like criminal
2 justice. Getting those citizen review boards that
3 we've been trying to do or economic justice equity
4 issues. We are spending more time doing that with
5 regards to polling changes and -- and these
6 redistricting -- how redistricting has impacted the
7 communities.

8 Q. Okay. Thank you. And just so I understand,
9 does the Peoples' Agenda have any sort of documents
10 that reflect the, you know, we were going to phone bank
11 about this issue, but now we're going to phone bank
12 about another issue?

13 A. I don't have a document that specifically
14 says that, no.

15 Q. Okay. Let me move next -- and we'll go next
16 to Topic Number 3 on the list. And that is the "The
17 Organization's exempt purpose and activities it
18 undertakes in accordance with its exempt purpose."

19 Do you see that?

20 A. I do.

21 Q. Okay. So I'm going to start with my same
22 questions for this topic. You're the designee for the
23 Peoples' Agenda on Topic 3, right?

24 A. That's correct.

25 Q. And did you prepare -- I mean, I'm sorry, did

1 about financial resources, yeah.

2 MS. BERRY: Great. Okay. Thank you.

3 BY MR. TYSON:

4 Q. Thank you. All right. So, Ms. Butler, I
5 know we've talked a lot about a lot of different
6 activities already. And I don't want to necessarily go
7 back over all those grounds, but I did want to ask a
8 question about the complaint. So back to Exhibit
9 Number 4. So if you can get that back in front of you
10 for me. And this time, we'll be on page number 17 of
11 the PDF.

12 A. Okay.

13 Q. Okay. That's fine. Just let me know when
14 you're there. I know --

15 A. I'm at page 17.

16 Q. Okay. So in Paragraph 52, there towards the
17 bottom of page 17, I want to ask you about the last
18 couple of sentences there. So there's a statement
19 about the middle of Paragraph 52 that says, "Funds and
20 volunteers normally directed towards programs that the
21 GCPA implements, such as voter empowerment efforts and
22 voter registration drives, have had to be and will
23 continue to be" -- "have to be" -- I'm sorry -- "and
24 will continued to have to be redirected and diverted
25 towards efforts to combat the effects of these new maps

1 on its constituents."

2 Do you see that?

3 A. Yes.

4 Q. And we've talked about the fact that the
5 Peoples' Agenda is not alleging that the funds will be
6 diverted, but that other resources will be diverted,
7 right?

8 A. That's correct.

9 Q. And so I know we've talked about already in
10 Topic 1 a number of things that the Peoples' Agenda is
11 going to have to do differently, and my list from that
12 was that voter education looks different, you're
13 holding voter town hall meetings that you would not
14 have held otherwise, and that you have had to set up
15 phone banking and texting, other types of activities
16 like that. Are there other activities that the
17 Peoples' Agenda will have to implement to combat the
18 effects of these new maps on its constituents as
19 referenced in this paragraph that we haven't talked
20 about yet?

21 A. I think we've covered most of them. Like we
22 still have to move some of our volunteers around to do
23 these activities that they could be doing other
24 activities to volunteer with us, those kinds of things.
25 You know, like I said, working to do presentations to

1 the community, getting those done. You know, we --
2 those -- I -- I think I've covered most of the
3 activities that were additional that were diverted from
4 our regular activities that we could do -- get done if
5 we were not doing these activities.

6 Q. Okay. So then now I want to ask you about
7 the next sentence there in 52 which says, "By diverting
8 time and resources to these priorities, GCPA will be
9 unable to commit to other programs that are core to its
10 mission."

11 Do you see that?

12 A. Yes.

13 Q. And so the reference to other programs that
14 the Peoples' Agenda is unable to commit to, I believe
15 we've talked already about the effort to get citizens
16 review panels in different counties. Is that one of
17 the programs that GC --

18 A. That's --

19 Q. -- that the Peoples' Agenda is unable to
20 commit to?

21 A. That's correct.

22 Q. Are there other programs beyond the citizen
23 review panels that the Peoples' Agenda will not be able
24 to commit to as a result of its work combating the
25 effects of the redistricting maps?

1 A. A lot of it has to do with that education
2 initiatives, working with parents with regards to
3 schools and involvement in schools getting community
4 schools. One of the issues we want to have is
5 community schools that have wraparound service. We
6 won't have time to dedicate a lot to that.

7 From an economic empowerment standpoint, we
8 want to make sure that our communities are able to
9 participate in a lot of the funding that comes through
10 governmental agencies that would empower, or either for
11 training -- that our people would get training to have
12 a livable wage. Those kinds of activities that would
13 improve the outcomes and the success of our communities
14 is things like that. Getting Medicaid expansion for
15 health care. We are adversely impacted as a community
16 of color by those kinds of issues. We won't have time
17 to vote, to get those things for our community.

18 So it's those kinds of things that we go
19 lacking because we are prioritizing and having to make
20 sure that people first of all, get to have fair maps
21 and get the representation because the people that make
22 the policies for those areas that we talked about,
23 impact those policy areas.

24 So it's -- that's why we are devoting so much
25 time to this redistricting because we have to have

1 fair representation that would give us, you know --
2 would help us to achieve our goals in our community
3 from those other issues standpoint.

4 Q. Okay. And just so I understand, is it the
5 Peoples' Agenda's view that if there were fair maps in
6 Georgia, you would be able to devote all the necessary
7 resources to all those different programs you just
8 listed, like community schools and things like that?

9 A. Yes.

10 (Whereupon, Defendants' Exhibit No. 5 was
11 identified for the record.)

12 BY MR. TYSON:

13 Q. So let me give us another exhibit here
14 because I want to work through some of these
15 activities.

16 All right. So I just uploaded Exhibit Number
17 5, and this unfortunately is a 98-page PDF, but I only
18 need to start looking at page 9. So if you could let
19 me know when you have that loaded.

20 A. I have Exhibit 5.

21 Q. Okay. So if you could, go to page 9 with me.
22 And just for the record, this is the Peoples' Agenda's
23 First Supplemental Objections and Responses to
24 Defendants' First Set of Interrogatories and Requests
25 for Admission -- I'm sorry, Request for -- First Set of

1 Q. So maybe what we can do is this: If you want
2 to jump back to Exhibit Number 4, the complaint, and
3 we'll go to page -- page 15. Again, I'm sorry. This
4 is a lot easier when we're in the same room and I
5 can -- we can keep the documents open in front of us.

6 A. I have it.

7 Q. Okay. On page 15, and I wanted to ask --
8 what I am asking about is paragraph 45.

9 It says, "The GCPA brings this action on
10 behalf of itself and its individual members who are
11 registered voters residing in Georgia House, State
12 Senate, and Congressional districts where their voting
13 power will be reduced under the new plans."

14 Do you see that?

15 A. Yes.

16 Q. And so what I'm asking is just, does the
17 Peoples' Agenda have a way to determine which House,
18 Senate, and Congressional districts its individual
19 members reside in?

20 A. They have a way of determining -- let's see,
21 we can -- we go by our members, where they live, and by
22 the voter files.

23 Q. Okay. And, again, I'm not asking for
24 anything that might have come from work with your
25 lawyers on this topic, but I'm just ask -- I'm just

1 going to ask: Unrelated to that, did the Peoples'
2 Agenda do any analysis of which House, Senate, and
3 Congressional districts its members live in either
4 before filing a lawsuit or after filing it?

5 A. I think that, again, is something we work
6 with our counsel on.

7 Q. Okay. Then that's totally fine. There also
8 is the name of one individual that was provided in the
9 discovery responses. And to make things easier, I
10 don't want to put that person's name on the transcript
11 of the deposition. But does the Peoples' Agenda know
12 what district for House, Senate, and Congress the
13 identified member lives in?

14 A. We know, yes.

15 Q. And what districts are those?

16 A. I didn't look at them to refresh my memory on
17 it -- the numbers, but I know he lives in Cobb County,
18 in the Cobb County districts.

19 Q. Okay.

20 A. The numbers change, so, you know . . .

21 Q. Yes. My district numbers change too. You
22 get used to that.

23 A. Uh-huh.

24 Q. All right. So next, let's go ahead and go to
25 the next topic, which is Topic Number 9, which is,

1 "Whether and how the Organization determined if any of
2 its individual members are impacted by the laws,
3 policies, and protocols challenged in this action."

4 And I think based on your answer earlier,
5 this -- this may be one there's not a whole lot to talk
6 about. But just to clarify, you're the designee for
7 Topic 9, right?

8 A. Yes.

9 Q. And is there any method the organization used
10 to determine whether its individual members were in
11 districts that it challenges that did not involve
12 working with your lawyers to make that determination?

13 A. No.

14 Q. Okay. Then that is definitely our shortest
15 topic yet. So I suspect Number 10 may be similar, but
16 let's move to that one. Topic 10, "The method(s) used
17 by the Organization to challenge" -- I'm sorry -- "to
18 determine which district(s) it would challenge in this
19 action."

20 MR. TYSON: And, Crinesha, I know this is one
21 that y'all had not planned to produce a witness
22 on. And I'm assuming based on Ms. Butler's answer
23 to Number 9, every answer to the methods used
24 would also be privileged; is that right?

25 MS. BERRY: That's correct.

Georgia State Conference of The NAACP, et al. v. S

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C E R T I F I C A T E

STATE OF GEORGIA)
COUNTY OF HENRY)

I, KATHRYN TAYLOR, Certified Court Reporter for the County of Henry and for the State of Georgia, do hereby certify:

That the foregoing transcript is a true and accurate account of evidence and testimony taken by me in the matter of GEORGIA STATE CONFERENCE OF THE NAACP, et al. versus STATE OF GEORGIA, et al., to the best of my ability.

I further certify that the foregoing pages 7 through 86 of testimony represent a true and correct record of the evidence given upon said plea;

And I further certify that I am not a relative by blood or marriage, or an employee of attorney or counsel of any of the parties in the case, nor am I financially or in no way interested in the outcome of the action.

This, the :



KATHRYN TAYLOR, CCR

No. 5082-8490-7080-9088

CERTIFIED COURT REPORTER

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D I S C L O S U R E

STATE OF GEORGIA Deposition of HELEN BUTLER
COUNTY OF HENRY FRIDAY, JANUARY 13, 2023

Pursuant to Article 8.B of the rules and regulations of the Board of Court Reporting of the Judicial Council of Georgia, I make the following disclosure:

I, Kathryn Taylor, am a Georgia Certified Court Reporter. I am here as an independent contractor for Veritext Legal Solutions.

Veritext Legal Solutions was contacted by TAYLOR ENGLISH DUMA LLP, to provide court reporting services for this deposition. The firm will not be taking this deposition under any contract that is prohibited by O.C.G.A. 15-14-37(a) and (b).

FRIDAY, JANUARY 13, 2023



KATHRYN TAYLOR, CCR

No. 5082-8490-7080-9088

CERTIFIED COURT REPORTER

Georgia State Conference of The NAACP, et al. v. S

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

GEORGIA STATE CONFERENCE OF THE)
NAACP, et al.,) Case No.
Plaintiffs,) 1:21-CV-5338-
v.) ELB-SCJ-SDG
STATE OF GEORGIA, et al.)
Defendants.)

COMMON CAUSE, et al.,)
Plaintiffs,) Case No.
v.) 1:22-CV-00090-
BRAD RAFFENSPERGER) ELB-SCJ-SDG
Defendant.)

The DEPOSITION of:

CYNTHIA BATTLES

Being taken pursuant to stipulations herein:

Before Kathryn Taylor, CCR

FRIDAY, JANUARY 13, 2023

Commencing at 11:25 a.m.

All parties, including the court reporter, appeared by
videoconference.

1 different types of activities the Peoples' Agenda is
2 engaged in? And I'm assuming, and I may be wrong about
3 this, but that you have some knowledge of some of the
4 specific things that you undertook during the
5 redistricting process on behalf of the Peoples' Agenda?
6 Am I right about that?

7 A. Yes, sir.

8 Q. So if you could walk me through, what are
9 some of the activities and things you did differently
10 with your time in light of the redistricting plans on
11 behalf of the Peoples' Agenda?

12 A. So you have to understand that when I was
13 hired, one of the specific things that Ms. Helen Butler
14 had asked me to do was expand the work that we did in
15 at least four of those other areas besides voting and
16 elections. Because of the way that the redistricting
17 process worked, I had to take -- I had to change my
18 plan from how much time I planned to spend expanding
19 those areas and working in those areas to focus almost
20 fully on the redistricting process. Ms. Helen and I
21 had several conversations about that because,
22 obviously, it impacted my work performance given I had
23 goals and a strategy.

24 So a few of the things that we did, because
25 we were concerned about the fact that the public did

1 not have data, including census data or maps, proposed
2 maps to look at, when we got the schedule for the joint
3 committees' town halls, we planned a series of
4 educational town halls that would precede those so that
5 we could talk to citizens who attended and give them
6 sort of an idea of what they could ask for, since they
7 didn't have that information to look at. That was in
8 June and July of 2021. So I spent a significant amount
9 of time traveling and doing that.

10 And then, during special session, I testified
11 a total of 10 times during that process. So I had --
12 had this process happen differently, I would not have
13 spent that much time traveling, spent that much time
14 training people. I certainly would not have testified
15 10 total times during special session.

16 So there was a significant amount of time and
17 effort that was diverted from getting ready for special
18 session, working on citizen review boards, doing things
19 like educating folks about what a -- what the QBE is,
20 and what an opportunity would change for public schools
21 in Georgia. All of these things that we had planned,
22 I didn't get to do those because of redistricting.

23 Q. I understood. So I want to kind of drill
24 down a little bit on those. So at the time you were
25 hired by the Peoples' Agenda, was there a conversation

1 about the fact that redistricting was on the horizon,
2 or was that not part of the initial conversation when
3 you joined the Peoples' Agenda?

4 A. Oh, absolutely. We knew it was coming.
5 Ms. Helen had already started some of her census work
6 before I -- like town halls and events and making sure
7 that folks knew that they needed to fill out the census
8 before I started.

9 Q. And so when you mentioned the different tasks
10 that you were brought on to work on -- I think you
11 mentioned there were four things. Was that the
12 Citizens Review Board?

13 A. Five.

14 Q. Oh, five. Okay. Can you just walk me
15 through it?

16 A. Five -- five policy buckets, including voting
17 and elections.

18 Q. Okay. And what were the five policy buckets?

19 A. Voting and elections, public education,
20 criminal justice reform, economic equity, environmental
21 justice.

22 Q. A portfolio for sure.

23 A. It's a lot.

24 Q. Yes.

25 A. We work in partnership and coalition with a

1 lot of it, so . . .

2 Q. And so then, essentially, I -- as I
3 understand what you've said, the -- the other four
4 policy buckets had to take second place to voting and
5 election policy bucket because that was all-consuming
6 in 2021; is that correct?

7 A. That's correct.

8 Q. Okay. And so what I want to do is kind of
9 break down pre-adoption of the maps, the period before
10 that, and then the period after that. So in the period
11 before, let's start with before the special session.
12 So before the special session was held, you were
13 spending a lot of time on these educational town halls
14 to help people -- people prepare, and then attending
15 and helping, I guess, coordinate testimony for the
16 legislature's town hall meetings; is that right?

17 A. Yes, sir.

18 Q. Okay. And were there other activities
19 related to redistricting that you were undertaking
20 before the start of the special session, in addition to
21 the work around the town halls?

22 A. No, sir, because we didn't have any
23 information before that. I mean, since this data came
24 out in September, and we hadn't seen any proposed maps
25 until right before special session started.

1 Q. And do you recall a congressional map being
2 released I believe it was in late September?

3 A. It was like September, yes. But I don't know
4 if you recall or not, they released the maps but
5 getting the (indiscernible) files was a little bit
6 difficult. And while it's nice to have a pretty map to
7 look at, it's really hard to do data if you don't have
8 (indiscernible) files.

9 Q. Gotcha. And thank you. Yeah, my memory of
10 that time period is a little fuzzy myself.

11 So let's go next to special session convenes
12 through the end of special session. So I know you said
13 you testified a total of 10 times, and then I'm
14 assuming you were also helping with analysis as maps
15 were being released. Is that fair to say?

16 A. At that point, I was not helping with the
17 analysis. I was doing testimony prep, so I was
18 preparing my own testimony, making sure that folks knew
19 as much as possible in their districts and could show
20 up to testify. It was very time consuming because
21 committee hearings were scheduled last minute, we got
22 agendas last minute, so a lot of my time was spent
23 mobilizing the public.

24 Q. Understood. Was that the first special
25 session where you had participated in a special session

1 on redistricting?

2 A. Yes, it was.

3 Q. Okay. When you testified -- I know you said
4 you testified a total of 10 times, were you ever
5 prevented from testifying by the committees?

6 A. No, I was not.

7 Q. So you worked through the special session.
8 The special session finishes, and then governor signs
9 the maps at the end of December 2021. Can you walk me
10 through, after December 2021, what activities you were
11 engaged in that were related to the redistricting
12 plans?

13 A. I'm thinking you're only asking about
14 congressional maps and the state maps, right? You're
15 not -- we're not talking local redistricting?

16 Q. Oh, yes. That's a -- that's a great
17 clarification, yes. So anything related to the House,
18 Senate, and Congressional plans that you were
19 undertaking, but not local redistricting.

20 A. So after that, there was a lot of making sure
21 that people knew that their districts had changed, and
22 kind of hoping that they got an idea of what their new
23 districts looked like. We did a lot -- we did -- we
24 did a "meet your new legislator" series, mostly via
25 online so that people could have a chance to learn who

1 their new legislator was, that kind of thing. There
2 was a lot of corrections because afterwards, when we
3 had the primary, people didn't know what their new
4 district was. I had a lot of situations where people
5 were calling me going, Wait. I thought so and so was.

6 And I'm going to be honest, as engaged as I
7 was in the process, I went to go vote and Park Cannon
8 wasn't my representative anymore, so I was a little
9 shocked.

10 So -- so that was kind of the thing with --
11 with the general public. There wasn't a great -- no
12 shade to the Secretary of State, but -- or the
13 governor, but there was not a way that, without our
14 help, that people are being informed, these are your
15 new legislators, this is your new district, that kind
16 of thing. So we spent significant resources on doing
17 that.

18 Q. Okay. And have you been involved in a voter
19 education effort after our -- a decennial redistricting
20 before?

21 A. No.

22 Q. Okay. Are there specific things that the
23 Peoples' Agenda was doing that related to the -- what
24 it says is the illegal nature of the maps in its
25 interactions with voters after December 2021?

1 A. We were collecting stories. We had a lot of
2 people who were frustrated, especially those who just
3 wanted to testify who felt like their voices weren't
4 heard in the process.

5 Q. Okay. So a story-collection element was part
6 of that. Were there other activities related to the
7 allegedly illegal nature of the House, Senate, and
8 Congressional maps --

9 A. Not to my knowledge.

10 Q. -- that the Peoples' Agenda undertook after
11 December 2021?

12 A. Not to my knowledge. Or I don't recall.
13 Let me put it that way. I shouldn't say not to my
14 knowledge because that sounds like I don't know, but I
15 would have been there. I'm just going to say I don't
16 recall. Because at this point, we've had three or four
17 sessions and 500 elections since then.

18 Q. And so it'd be correct to say that the new
19 activities that the Peoples' Agenda undertook after
20 December 2021 related to the allegedly illegal nature
21 of those statewide maps was primarily story collection
22 from voters?

23 A. Story collection, and, again, we did do voter
24 education because a lot of people didn't understand the
25 decision-making process, which is fair because we

1 didn't understand the decision-making process. And
2 when we asked the questions, we never got answers about
3 it.

4 Q. Does the Peoples' Agenda engage in story
5 collection for other tasks it is involved in or was
6 that unique to redistricting?

7 A. That was fairly unique to redistricting. We
8 have collected stories after elections if there were
9 situations that occurred that we want to bring to the
10 Secretary of State or the State Election Board's
11 attention.

12 Q. Okay. Ms. Battles, let me move to Topic
13 Number 11 in Exhibit 1, which is the second topic
14 identified about. That's titled, "The Organization's
15 communications with the Georgia General Assembly
16 regarding the laws, policies, and protocols it
17 challenges in this action, from January 1, 2021 to the
18 present."

19 Do you see that topic?

20 A. Yes, I do.

21 Q. And you're the designee for Topic Number 11
22 for the Peoples' Agenda as well, right?

23 A. Yes, I am.

24 Q. And same question again. Did you talk to
25 anybody or review any documents specifically to prepare

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D I S C L O S U R E

STATE OF GEORGIA Deposition of CYNTHIA BATTLES
COUNTY OF HENRY Friday January 13, 2023

Pursuant to Article 8.B of the rules and regulations of the Board of Court Reporting of the Judicial Council of Georgia, I make the following disclosure:

I, Kathryn Taylor, am a Georgia Certified Court Reporter. I am here as an independent contractor for Veritext Legal Solutions.

Veritext Legal Solutions was contacted by Taylor, English, Duma, LLP, to provide court reporting services for this deposition. The firm will not be taking this deposition under any contract that is prohibited by O.C.G.A. 15-14-37(a) and (b).
Friday, January 13, 2023.



KATHRYN TAYLOR, CCR
No. 5082-8490-7080-9088
CERTIFIED COURT REPORTER

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C E R T I F I C A T E

STATE OF GEORGIA)
COUNTY OF HENRY)

I, KATHRYN TAYLOR, Certified Court Reporter for the County of Henry and for the State of Georgia, do hereby certify:

That the foregoing transcript is a true and accurate account of evidence and testimony taken by me in the matter of GEORGIA STATE CONFERENCE OF THE NAACP, ET AL. versus STATE OF GEORGIA, ET AL., to the best of my ability.

I further certify that the foregoing pages 5 through 36 of testimony represent a true and correct record of the evidence given upon said plea;

And I further certify that I am not a relative by blood or marriage, or an employee of attorney or counsel of any of the parties in the case, nor am I financially or in no way interested in the outcome of the action.

This, t



KATHRYN TAYLOR, CCR

No. 5082-8490-7080-9088

CERTIFIED COURT REPORTER

Georgia State Conference of The NAACP, et al. v. S

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

GEORGIA STATE CONFERENCE OF THE
NAACP, et al.,

Plaintiffs,

Case No. 1:21-CV-5338-
ELB-SCJ-SDG

vs.

STATE OF GEORGIA, et al.,

Defendants.

COMMON CAUSE, et al.,

Plaintiffs,

Case No. 1:22-CV-00090-
ELB-SCJ-SDG

vs.

BRAD RAFFENSPERGER,

Defendant.

DEPOSITION OF GERALD GRIGGS

30(B)(6) REPRESENTATIVE

THE GEORGIA STATE CONFERENCE

OF THE NAACP

JANUARY 18TH, 2023 - 9:00 a.m.

Through Video-Conference

Via ZOOM,

Inna Russell, RPR, CCR #1-1-1-1

1 Are those allegations still true?

2 A. Yes, they are.

3 Q. Subject to the objection as to diversion of
4 the financial resources, could you tell me about
5 diversion of non-financial resources of the
6 Conference that support the allegations in Paragraph
7 42?

8 A. Sure. To the best of my knowledge, prior to
9 my time as the president and up till now, we have had
10 to shift our organizational philosophy and resources
11 to making sure that the impact of the new maps does
12 not substantially reduce the voting power of black
13 people in communities of color throughout the State.

14 So, of course, the NAACP focuses on multiple
15 pillars, both in social justice, civil rights,
16 reducing racial discrimination, and voting, we did
17 not put a lot of time and effort into specifically
18 fighting re-districting until we knew that the new
19 maps were going to be drawn and then saw the impact.

20 So whether that's programmatic, whether that's
21 strategic planning, whether that's implementation,
22 we've had to shift our resources from our main
23 pillars to focus directly on combating the
24 significant impact of re-districting.

25 Q. I believe you testified earlier, Mr. Griggs,

1 you have been a member of the Georgia Conference for
2 about ten years; is that right?

3 A. That's correct.

4 Q. Are you familiar with whatever efforts the
5 Georgia Conference may have undertaken with regard to
6 re-districting following the 2010 Census?

7 A. No. I was a member of the Georgia State
8 Conference, but I was not in the executive-level
9 position. I know that the Atlanta branch
10 participated, but I was mainly in the Atlanta branch
11 at that point.

12 Q. Again, subject to the objection to the
13 financial resources, can you tell me as to the
14 allegations in Paragraph 42, what are the things that
15 the NAACP Conference in Georgia would have done or
16 would be doing but for the re-districting? I'll stop
17 there.

18 MR. HEAVEN: Objection. Vague and ambiguous.

19 Is there something specifically you are asking for
20 or, because you said what they would be doing,
21 that could be any number of things. I want to
22 make sure we are precise with the question.

23 MR. BOYLE:

24 Q. Okay. Again, I apologize, Mr. Griggs, if my
25 question is not clear, that happens.

1 In other words, what was the NAACP doing
2 before, but it had to stop doing or had to reduce its
3 activity, in order to concentrate on the combating
4 restricting as alleged in Paragraph 42?

5 A. Okay. We were fighting racial discrimination
6 throughout the State. We were dealing with police
7 brutality throughout the State. We were focused on
8 reorganization of many of our branches to be able to
9 respond to the incidents that occur around the State
10 that affect the quality of life of African-Americans
11 and people of color.

12 And then, we knew that the maps were going to
13 be changed, so we had to shift and make sure we were
14 focused on not allowing for the dilution of African-
15 Americans and people of color's voting capacity and
16 power in the State.

17 So we had to shift resources from our focus,
18 which was racial discrimination, civil rights
19 violations, to focusing on making sure there was no
20 dilution through the re-districting plan and
21 implementation.

22 Q. If you look at the last three or four lines on
23 page 14 in Paragraph 42, it says that the Georgia
24 NAACP implements programs such as voter education
25 efforts and voter registration drives, but had to

1 redirect funds and volunteers towards re-districting.

2 I'm paraphrasing, but that's basically what
3 you are saying; right?

4 A. That's part of what I'm saying. That's just
5 some of the things we do.

6 We do do a lot of voter education efforts and
7 voter registration drives as well as the other items
8 that I mentioned, but not of that was focused
9 directly on, you know, combating re-districting or
10 educating voters on the impact of re-districting,
11 which is what we had to do.

12 We also had to make sure that we host the Town
13 Halls throughout the State to make sure we've got the
14 message out that there were going to be substantial
15 changes and that people needed to understand what the
16 impacts of those changes were going to be.

17 Q. Well, when Paragraph 42 says that voter
18 education efforts and voter registration drives have
19 had to be able to continue to be redirected. Can you
20 be more specific about each one -- let's take voter
21 education efforts first, how were those redirected
22 and diverted?

23 A. Well, we had to shift our messaging strategy
24 and our overall strategy to get people to understand
25 that, you know, many of the congressional districts

1 that they now live in will be drastically changed, so
2 polling precincts will be changed, their
3 representatives will be changed, and that they need
4 to understand what the impact that would have on
5 them.

6 Voter registration drives, if you were
7 registered to vote, especially with the voting
8 purges, you would have to make sure your registration
9 is still up to date and good, and that you have to
10 make sure that you are still in whatever district you
11 were in or you may have be moved to another district.

12 So we had to educate people, and we had to
13 make sure people were aware, and we had to make sure
14 people understood that they still had the
15 opportunity, through the Town Halls and through the
16 hearings, to be present to give voice to what was
17 about to happen, but also be prepared for the outcome
18 of what would happen.

19 None of that we would be doing but for the
20 issue of re-districting. We would have been simply
21 focused on protecting people's civil rights, making
22 sure we responded to the police-involved incidents
23 and the racial violence incidents that were current,
24 and then mobilizing people to vote by educating them
25 on the candidates and the issues, not the attempts to

1 dilute their voting power.

2 Q. So the voter education efforts, but for the
3 re-districting, would normally include what?

4 A. They would include the issues, the candidates
5 and making sure that people understood their voting
6 dates, their polling precincts and whether or not
7 they were registered and getting people
8 re-registered.

9 Q. Are you able to say how many volunteers,
10 whether it's a number of people or a number of hours,
11 that were diverted, as alleged in Paragraph 42, from
12 the NAACP's normal efforts to re-districting, to
13 combating effects of re-districting?

14 A. Specifically, no, I wouldn't be able to
15 quantify that number, one, because I wasn't in the
16 leadership position, but I can say that I know it was
17 substantial.

18 We had numerous events, both in the
19 communities or the units and at the State Conference
20 level to make sure that we were prepared to respond
21 to this.

22 So I can't give an outright number because I
23 wasn't the president at that time, but I know it was
24 a substantial effort and allocation of time to make
25 sure that we properly responded.

1 Q. Do you know whether there were any paid staff
2 of the Georgia Conference whose duties had to be
3 diverted to address the concerns as alleged in
4 Paragraph 42?

5 A. I know, at that time, the Georgia State
6 Conference had an executive director and had a
7 communications director, they had an office assistant
8 who was primarily focused on getting the message out
9 and planning the programming around pushing back on
10 re-districting. So I do know that they were working
11 on that more than they were working on anything else
12 that are a part of the pillars of our strategy to
13 make sure we advance the lives of colored people in
14 the State.

15 Q. That brings me to a question, are you paid by
16 the Georgia Conference for your duties as the
17 president?

18 A. No, it's a volunteer position.

19 Q. So you talked about educating voters about
20 their new representatives, their new districts. You
21 talked about voter registration drives, making sure
22 people were properly registered to take into account
23 the new maps.

24 Are there any other specific new activities
25 that the Georgia Conference had to undertake because

1 of the re-districting as alleged in Paragraph 42?

2 A. They had to appear at the Town Halls around
3 the State and give testimony at the hearings. And
4 they had other events, which were educational in
5 focus, both digitally and in person, to make sure
6 people were aware of what was happening and how they
7 could push back.

8 Q. Can you tell me about all of those other
9 digital and in person events?

10 A. I know that President Woodall and I believe
11 President Peters had virtual Town Halls and in person
12 Town Halls, I know the units did. By the units I
13 mean the branches of the NAACP which encompass the
14 State Conference.

15 Q. Well, that's a later topic, but I'll go ahead
16 and ask you. How is the Conference organized by
17 units?

18 A. The Conference is organized into a hundred and
19 eighty units and eighty-three youth and college
20 branches. So a unit is the actual functioning body
21 in a jurisdiction. So for the adult units, there are
22 a hundred and eighty throughout the State, they are
23 organized by region, either by county or by city.

24 And then the youth and college are organized,
25 some of the youth and college are associated with

1 adult branches, which would be a youth council, or
2 they are associated with the universities in Georgia
3 which would be a college branch.

4 So we have a hundred and eighty adult branches
5 and eighty-three youth and college branches around
6 the State.

7 Q. Are you able to say that there was a
8 particular program that the NAACP Conference in
9 Georgia would have -- would have undertaken but was
10 not able to because it had to divert its resources
11 to re-districting?

12 A. No, not an individual program. But I would
13 say is that we would have dedicated more resources to
14 the actual voter mobilization and get out to vote
15 earlier than we did, because we were focused on
16 re-districting while in the middle of the municipal
17 races.

18 So we had to shift significant resources away
19 from GOTV for municipal races to deal with special
20 session as well as voter education of what was
21 happening during that period in 2021.

22 Q. From your -- from your experiences as a member
23 in the Georgia Conference for the last ten years,
24 were you familiar with the Conference's "Get out the
25 vote" efforts in the 2018 election?

1 A. Some --

2 MR. HEAVEN: Object to the form. Relevance.

3 You may answer if you can.

4 DEPONENT GRIGGS:

5 A. Yes, somewhat.

6 Q. Okay. And 2018 was obviously before the 2021
7 re-districting occurred; correct?

8 A. That's correct.

9 Q. So tell me what those, the "Get out the vote"
10 efforts were like in 2018?

11 MR. HEAVEN: The same objection. You can
12 answer.

13 DEPONENT GRIGGS:

14 A. "Get out the vote" effort in 2018, basically
15 they had a calm strategy where they would use local
16 and regional media to get the message out.

17 They did have a few Town Halls, they did
18 employ a few canvasses, and they partnered with
19 several organizations to attempt to get the vote out,
20 so Georgia Stand Up, the People's Agenda, and
21 probably -- I know of Georgia Stand Up, People's
22 Agenda, I think that was it. No, there was one more
23 group I can't remember right now. But it wasn't --
24 it wasn't a strong statewide as it has become, so
25 there was an effort in 2018, it wasn't as successful

1 Conference's activity following the adoption of the
2 re-districting plans.

3 And the paragraph starting "however" on page
4 13, it says, The adoption of the Redistricting Plans
5 has made it more difficult for the Conference to
6 carry out its mission and it talks about the
7 diversion of resources.

8 Let me back up before I ask you specifically
9 about the response to number 2, Mr. Griggs. Besides
10 verifying these responses on behalf of the
11 Conference, did you actually read them over before
12 they were printed out?

13 A. Yes.

14 Q. Did you have a role in preparing the responses
15 as far as actually providing factual information
16 towards the final response?

17 A. Yes, I provided --

18 MR. HEAVEN: I'm going to object, he provided
19 answers to the extent that it doesn't involve any
20 communications with the counsel.

21 DEPONENT GRIGGS:

22 A. Yes. I provided the information, I didn't
23 draft them.

24 Q. Okay. Okay so Interrogatory 2 then, as we are
25 looking on page 13, and you've already testified, I

1 believe, Mr. Griggs, and I don't mean to waste time,
2 it says, as a result of the re-districting, Plaintiff
3 has been forced, and will continue to be forced, to
4 divert resources to educate Black voters and other
5 voters of color about the impact of the Redistricting
6 Plans. That's correct?

7 A. That's correct.

8 Q. The next sentence says, The dilution of the
9 voting strength requires Plaintiff to expend more
10 resources on public information about the unfair
11 maps, strategies to encourage civic participation,
12 and GOTV efforts.

13 A. That's correct.

14 Q. And then the last sentence on page 13,
15 carrying over, it talks about how the plaintiff, that
16 is the Georgia Conference, had to make significant
17 changes to its civic engagement and voter education
18 programs, including creating voter education
19 materials, et cetera; do you see that?

20 A. Yes, I see it.

21 Q. Is there anything, as you sit here today, that
22 you would want to add to the response to
23 Interrogatory 2?

24 A. Not that I can think of.

25 Q. Mr. Griggs, I put up on the screen a document

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CERTIFICATE

STATE OF GEORGIA:
COUNTY OF MUSCOGEE:

I hereby testify that the foregoing transcript was taken down, as stated in the caption, and the colloquies, questions and answers were reduced to typewriting under my direction; that the transcript is a true and correct record of the evidence given upon said proceeding.

I further certify that I am not a relative or employee or attorney of any party, nor am I financially interested in the outcome of this action.

I have no relationship of interest in this matter which would disqualify me from maintaining my obligation of impartiality in compliance with the Code of Professional Ethics.

I have no direct contact with any party in this action and my compensation is based solely on the terms of my agreement with my employer.

Nothing in the arrangements made for this proceeding impacts my absolute commitment to serve all parties as an impartial officer of the court.

This 31st day of January, 2023.



Inna Russell

No. 5988-9757-0978-2016

Georgia State Conference of The NAACP, et al. v. S

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

GEORGIA STATE CONFERENCE)
OF THE NAACP, et al.)

Plaintiffs,)

vs.)

STATE OF GEORGIA, et al.,)

Defendants.)

-----)
COMMON CAUSE, et al.,)

Plaintiffs,)

vs.)

BRAD RAFFENSPERGER)

Defendant.)

CASE NO.
1:21-CV-5338
ELB-SCJ-SDG

CASE NO.
1:22-CV-00090
ELB-SCJ-SDG

30(b)(6) remote deposition of GEORGIA
ASSOCIATION OF LATINO ELECTED OFFICIALS, INC.,
Deponent GERARDO ELEAZAR GONZALEZ, pursuant to
notice and agreement of counsel, under the
Federal Rules of Civil Procedure, before Celeste
Mack, CCR, RPR, at Crowell & Moring, 1001
Pennsylvania Avenue NW, Washington, D.C., on
Wednesday, January 11, 2023, commencing at
9:05 a.m.

1 Q. And does the FUND claim that it has had
2 to divert resources due to the adoption of the
3 2021 redistricting maps?

4 A. Yes.

5 Q. And what resources have changed as a
6 result of -- resources of the FUND have changed
7 as a result of the adoption of the 2021
8 redistricting maps?

9 A. Well, I'll start with from an
10 organizational perspective, we -- part of what
11 goes into the redistricting efforts are the
12 census, so this effort started to ensure that we
13 had an accurate count of the Latino community in
14 the State of Georgia.

15 So that started as we led up -- a year
16 and-a-half before we started with the census work
17 in 2020. So we were making sure that Latinos
18 were gonna be counted accurately in the census,
19 and we were heavily involved in informing and
20 educating our community on the value of
21 participation and being counted in the census.

22 The census is about power and money.
23 And power with regards to the redistricting and
24 how people get represented in elected office, but
25 also funding for local communities. So we did,

1 from an organization perspective, we made the
2 investment of increasing staff from four to eight
3 people to gear up for the census activities in
4 the outreach and engagement that we needed to do
5 in order to educate and inform our community in
6 the value of participating in the census.

7 So leading up to that, we -- we did
8 increase in resources for staff. And then
9 upon -- upon -- after the -- after the census was
10 done, after the census numbers were released, we
11 had to inform and educate the community about
12 that redistribution of power that happens with
13 redistricting.

14 And we engaged heavily in making sure
15 that our community understand -- understood the
16 connection between them participating in the
17 census, as well as the redistribution of power
18 that happens every ten years with the
19 redistricting process in Georgia.

20 Q. And what you described concerning the
21 census, would that be under category -- would
22 that be education, or how would you characterize
23 those efforts?

24 A. We categorize the efforts on the census
25 and on redistricting under civic engagement for

1 our community.

2 Q. And the work under civic engagement
3 concerning the census itself, was that work that
4 would have been undertaken no matter what the
5 maps were that were adopted -- or what maps were
6 adopted in 2021 under redistricting?

7 A. That work does take place every ten
8 years that we've been in existence, so we've done
9 that work in 2010; we did that work in 2020 as
10 well.

11 Q. And how did that work -- or strike that.
12 Did that work change once the maps were
13 adopted, or was there an effort that was directed
14 solely to now that redistricting is done, that
15 the maps have been adopted, then there's efforts
16 that we undertake from here forward? Does that
17 make any sense?

18 A. Well, once the maps were adopted, part
19 of our effort was to educate and inform our
20 community about the Georgia legislative efforts
21 to diminish the voting strength of minority
22 communities across the state by unfairly packing
23 and cracking our communities to dilute the growth
24 of the communities power in the legislative
25 process through the redistricting process.

1 So we were making sure that our
2 communities were informed and educated about the
3 legislative efforts to dilute the voting strength
4 of minority community, particularly black, API
5 and Latino communities in that process.

6 Q. And again, those efforts, would they
7 fall under the FUND civic engagement category?

8 A. Yes.

9 Q. And I understand from your testimony
10 that once the maps were adopted, there was
11 messaging that changed as a result of the maps,
12 the redistricting maps. What -- were there any
13 program changes or how did the activities -- any
14 activities change as a result of the adoption of
15 the maps?

16 A. With the adoption of the maps we had to,
17 again -- part of the education was that we talked
18 about the impact that it has on our community
19 with the cracking and packing and why we believe
20 that happened.

21 And then we also had to inform and
22 educate our community about the new districts in
23 which they were going to be voting in.

24 Q. And how did you go about informing the
25 community about the new district that they would

1 need to be voting in?

2 A. We did that through a variety of
3 outreach efforts that we do, such as we send out
4 mailers, we make phone calls, we send out texts,
5 those type of -- that type of thing. And we went
6 door to door in some instances.

7 Q. And the outreach efforts that you just
8 described, the mailers, phone calls, and door to
9 door, generally speaking were those outreach
10 efforts entirely focused on the new redistricting
11 maps, or were those efforts, did they also go to
12 voting registration or other kind of areas
13 related to voting?

14 A. It was one of the topics that we had in
15 those communications.

16 Q. So did the FUND publish mailers that
17 were solely on redistricting?

18 A. Leading up to the redistricting effort,
19 we did publish mailers that were targeted for
20 census outreach and participation, which does --
21 which does impact the redistricting effort.

22 Q. And then after the maps were adopted,
23 were there specific mailers that were sent out
24 that referenced just the redistricting, the new
25 redistricting in 2021?

1 A. Not to my knowledge, no.

2 Q. And you mentioned that there were phone
3 calls that were made in your outreach effort.
4 Were there phone calls that were made solely for
5 the purpose of communicating issues related to
6 redistricting, or was that part of -- the phone
7 calls were -- there were other topics that were
8 discussed in those phone calls?

9 A. Well, in our efforts to engage our
10 community to make sure that they're educated and
11 informed about the voting process, part of the
12 voting process was the change in election laws,
13 the change of districts that happens, so that was
14 one of the topics we covered when we were talking
15 to folks about their right to vote.

16 Q. Sure. And then the change in election
17 laws, would that have included changes -- law
18 changes under SB202?

19 A. The law changes are reflective of the
20 redistricting effort, as well as the changes in
21 SB202.

22 Q. Okay. And you also mentioned in your --
23 when you spoke about the Fund's outreach efforts,
24 the door-to-door efforts. Again, were those
25 efforts concentrated solely on redistricting, or

1 the redistricting maps that were adopted in 2021?

2 A. No, not solely on redistricting. As I
3 mentioned, we educated and informed our community
4 about exercising their rights to vote, and part
5 of them exercising their rights to vote is
6 knowing they had new districts and knowing
7 changes in election laws.

8 Q. And the outreach efforts that you
9 described, has the FUND been sending out mailers,
10 doing phone calls, going door to door and those
11 outreach efforts prior to the adoption of the
12 2021 maps?

13 A. Could you restate?

14 Q. Sure, yeah. What I'm trying to get at
15 is -- I'll ask it this way.

16 How long has the FUND been undertaking
17 those general areas of outreach that you
18 described for us, the mailers, the phone calls,
19 the door to door?

20 A. So those -- those efforts we do in local
21 elections, as well as midterm and presidential
22 elections and primaries, so we do those efforts
23 as an ongoing basis from the community
24 perspective.

25 However, our messaging needs to

1 accommodate the changes in districts, so that's
2 the distinction here, is that normally -- that is
3 a normal process that we do, but adding another
4 topic to what we're talking to voters about is a
5 diversion of resources that we're doing
6 associated with the work that we're doing.

7 So had the districts not changed, that's
8 not something that we would have talked about
9 because they would be able to exercise their
10 right to vote without having to understand that
11 there was a new district that they were voting
12 in.

13 Q. Okay. And I know you mentioned that the
14 FUND had been engaged in an outreach effort for
15 other elections. So what -- my question is, when
16 did the FUND begin engaging in the outreach
17 efforts that you just described?

18 A. Immediately when we started the FUND in
19 2004, we started our outreach efforts to the
20 Latino community.

21 Q. And did those outreach efforts that were
22 undertaken by the FUND after it was established
23 in 2004, how were -- were those outreach efforts
24 different and separate from the -- any outreach
25 efforts or other efforts by the GALEO

1 Association?

2 A. As I mentioned before, when we started
3 as an organization -- a set of organizations,
4 once we started the GALEO Latino Community
5 Development Fund in 2004, the programming for
6 outreach was focused on the 501(c)(3)
7 organization, which is GALEO Latino Community
8 Development Fund; and the lobbying activities and
9 policy issues were taken up with the Georgia
10 Association of Latino Elected Officials, which is
11 a 501(c)(6) organization.

12 Q. Okay. So in other words, since the FUND
13 was established, the outreach efforts that you
14 described have been ongoing and engaged in by the
15 FUND, correct?

16 A. That is correct.

17 Q. And I think if I understand your
18 testimony, those were -- those outreach efforts
19 were not undertaken by the Association?

20 A. Not as a normal practice, no. But the
21 Association was also a non-bipartisan
22 organization that could engage in those outreach
23 activities, which is what we did when we first
24 started in 2003.

25 Q. Okay. And were any of those efforts

1 that you just described by the Association, were
2 any of those taken over by the FUND when the
3 Association was dissolved?

4 A. As I mentioned when we started in 2003,
5 the Georgia Association of Latino Elected
6 Officials did both advocacy and policy work, as
7 well as outreach to our community and leadership
8 development under the 501(c)(6) organization.

9 When we started the GALEO Latino
10 Community Development Fund in 2004, all of the
11 outreach activities under civic engagement and
12 leadership development transitioned to the
13 501(c)(3), which is GALEO Latino Community
14 Development Fund in order to implement the
15 programming there and remained in the 501(c)(6),
16 for the most part was our lobbying and policy
17 issues. So that transition happened at that
18 point in time.

19 Q. Okay. And that's all I'm trying to
20 understand, is what remained in -- when the --
21 when the Association was dissolved and that got
22 turned over to the FUND or undertaken by the FUND
23 in terms of the -- you know, with the policy
24 issues that you talked about. Is there any more
25 about what those were?

1 A. I think I've covered that pretty
2 thoroughly. I'm not sure what the question is.

3 Q. Okay, let me try it one more time. Was
4 there anything specific that the Association was
5 doing before it was dissolved that was
6 specifically taken over by the FUND?

7 MR. LAYMAN: I'm gonna object again
8 about questions related to the Association, which
9 is dissolved and not a party to this litigation.

10 MS. LaROSS: Okay, I'll move on.
11 I -- yeah, I'll move on.

12 BY MS. LaROSS:

13 Q. So you've spoken, Mr. Gonzalez, and we
14 were discussing topic A -- or topic one in
15 Exhibit A of the notice of deposition and on the
16 diversion of nonfinancial resources. So you
17 described outreach efforts. Is there anything
18 else that the FUND -- any other activities or
19 programming that has -- that has changed for the
20 FUND since the adoption of the redistricting maps
21 in 2021?

22 A. As I mentioned before, the organization
23 had to engage with our community to educate and
24 inform on the state's efforts to crack and pack
25 our community and dilute the power of the

1 minority communities, and educate our community
2 about the new district in which they were to be
3 going in in that process.

4 So those are the issues -- those are the
5 things we did. We did that in a variety of
6 different ways, including the ways that we did
7 before.

8 Q. And you've spoken about the outreach
9 efforts and the mailings, phone calls, and then
10 door to door. Were there any other ways or --
11 any other ways that the FUND was educating the
12 community concerning the adoption of the 2021
13 redistricting maps?

14 A. We were also very active with Spanish
15 media. We were very active with social media as
16 well.

17 Q. Is there any other undertakings by the
18 FUND that is as a result of the 2021
19 redistricting maps?

20 A. I think we've covered the scope of what
21 we did that I -- that I can recall at this time.

22 Q. Okay. All right. And then you spoke
23 about mailers that were sent out that included --
24 that were related to the adoption of the 2021
25 redistricting maps. Do you know if those mailers

1 or copies of those mailers have been produced in
2 this litigation?

3 A. I -- we've produced documents to our
4 attorneys, but I'm not -- I'm not -- I don't have
5 that in front of me so I couldn't answer that
6 question.

7 Q. Okay. Do you have any knowledge of --
8 strike that.

9 On behalf of the FUND, did you collect
10 those mailers and submit them to your attorneys?

11 A. I believe that we did.

12 Q. And the phone calls that were made in
13 the outreach efforts that you've described, does
14 the FUND provide any -- like a phone calling
15 transcript or any kind of written document to as
16 a "go by" for folks when they're making the phone
17 calls?

18 A. We sometimes do, but that varies from
19 time to time because we train our staff and
20 volunteers how to conduct those phone calls and
21 they're more conversational based on the needs of
22 the --

23 Q. Sorry. So then would there be any
24 written documents that would reflect how -- what
25 the folks were trained to say during the phone

1 conversations that you've talked about?

2 A. I believe that our staff does generate a
3 general -- a general outline of topics to cover,
4 but I would have to check to see if that -- that
5 did take place.

6 Q. Okay. So that's not something that
7 you've already produced to your attorneys in this
8 case; am I correct?

9 A. I'm not clear if that's been the case or
10 not.

11 Q. Okay. Yeah, and I would appreciate it
12 if you could double check that.

13 MS. LaROSS: And we can follow-up
14 with you, Shawn, on that.

15 MR. LAYMAN: Okay.

16 BY MS. LaROSS:

17 Q. Are there any written training materials
18 that are prepared by the FUND that would reflect
19 how folks are trained and what they're trained to
20 ask during phone conversations?

21 A. We do have training materials for our
22 general GOTV purposes, get-out-the-vote purposes
23 and engagement with our community, but not
24 necessarily anything specific to redistricting.

25 As I said, the four that -- when we

1 engage with our community, it's conversational.
2 So depending on how the conversation is going is
3 determined what topics we cover with our
4 community members in either English or Spanish.

5 Q. Have there been any programs or
6 activities of the FUND that have ceased as a
7 result of -- or that have stopped -- you stopped
8 doing as a result of the adoption of the 2021
9 redistricting maps and what you've described as a
10 diversion of resources?

11 A. I don't believe that we've stopped, we
12 continue to educate and engage our community
13 about the changes in law that have happened. Our
14 community is not always -- not -- does not engage
15 in every single election, so the education and
16 the engagement process is an ongoing effort.

17 Q. Is there anything else, other than what
18 you've described already for us, Mr. Gonzalez,
19 that you would understand to be resources, not
20 financial resources, that have been diverted as a
21 result of the adoption of the 2021 maps?

22 A. Not any more that I can think of at this
23 moment.

24 Q. In terms of nonfinancial resources, have
25 you had to change or expand the numbers of

1 volunteers, for example, that the FUND utilizes
2 or engages with for the outreach activities that
3 you've described?

4 A. Certainly we've had to expand and
5 increase our outreach efforts due to the plethora
6 of changes that have happened in Georgia with
7 regards to voter suppression tactics that the
8 Georgia legislature has done, that include but
9 aren't limited to SB202, for example, as well as
10 the redistricting process that packed and cracked
11 and diluted minority communities ability to elect
12 candidates of choice.

13 Q. So does that, what you just described,
14 the plethora of changes in Georgia law, has
15 that -- has the FUND had to increase the number
16 of volunteers in the last -- since 2021?

17 A. Yes, and we had to increase our number
18 of volunteers in our targeted outreach to our
19 community to ensure that we are adequately
20 educating and informing our community about the
21 changes in districts, as well as changes in law.

22 Q. Okay. And has the FUND had to add any
23 staff as a result of -- and I think I understand
24 that -- let me ask it this way, I'm gonna start
25 over again.

1 I understand that the FUND hasn't added
2 any staff as a result of the adoption of the 2021
3 redistricting maps; am I correct about that?

4 A. Well, I wouldn't necessarily say that.
5 What I would say is that GALEO Latino Community
6 Development Fund has had to increase staffing
7 resources to meet the challenges of today, that
8 include a Jim Crow mentality of the Georgia
9 legislatures to suppress minority communities
10 voters, including but not limited to SB202 and
11 the redistricting efforts to racially
12 discriminate against Latino, and black and API
13 community members.

14 So because of the environment -- the
15 hostile environment that we're in with regards to
16 voting rights, we have had to increase our staff
17 to ensure that we have adequate outreach and
18 education efforts ongoing to our community about
19 maneuvering around the Jim Crow obstacles that
20 the legislature puts in place to ensure that our
21 communities voices are respected in the
22 Democratic process.

23 Q. I think you mentioned earlier in your
24 deposition, was there two staff members that were
25 added at the time of the 2020 census; do I recall

1 your testimony correct about that?

2 A. No, that's not correct. We went from
3 four staff members to eight staff members, so we
4 added four additional staff members to our
5 organization. And since then, now we're at 15
6 staff members to our GALEO Latino Community
7 Development Fund.

8 Q. Would you say that any of those staff
9 members were added solely for the purpose of
10 addressing the issues raised in this litigation
11 concerning the 2021 -- the adoption of the 2021
12 redistricting maps?

13 A. As I mentioned in context, Georgia is --
14 Georgia legislature has taken a very aggressive
15 effort to dilute the minority communities ability
16 to exercise their right to vote and elect
17 candidates of choice, both including SB202, as
18 well as through the redistricting process.

19 So in those efforts we have had to
20 increase our resource -- staff resource
21 allocation to ensure that we can continue to
22 engage and educate our community about exercising
23 the right to vote, given the changes in laws that
24 we've had.

25 Q. Okay. So with regard to topic number

1 one, Mr. Gonzalez, is there anything else, other
2 than what you've explained to us and already
3 testified to that is responsive to topic number
4 one?

5 A. No. As I mentioned, that's all that I
6 can recall at this time.

7 Q. Okay, thank you.

8 And I believe as to topic number two in
9 the notice, that through agreement of counsel
10 that the FUND was not raising a diversion of
11 financial resources, that based on that agreement
12 we've withdrawn topic number two.

13 MS. LaROSS: Is that your
14 agreement, Shawn?

15 MR. LAYMAN: Yes, it is.

16 MS. LaROSS: So Mr. Gonzalez won't
17 be testifying as to topic number two today; is
18 that correct?

19 MR. LAYMAN: Yes.

20 THE WITNESS: Yes.

21 BY MS. LaROSS:

22 Q. So let's move on to topic number three
23 on the notice of deposition. Okay, so topic
24 number three is the organizations exempt purpose
25 and activities it undertakes in accordance with

1 example, during the election we invited our
2 members to participate in Taco Tuesday to the
3 poles. We had -- we provided tacos for folks and
4 started reminding people about going to the poles
5 during the early voting process, as an example.

6 MS. LaROSS: And Shawn, in response
7 to supplemental response to discovery, the FUND
8 has disclosed under an AAO designation the name
9 of a member who's been affected by redistricting.
10 And I obviously -- we don't want to say her name
11 here, but I do want to ask just a couple of
12 questions about that.

13 And then you can tell me if we need to
14 designate this portion of the deposition as a --
15 I'm trying to avoid that, but if we need to, just
16 let me know; is that acceptable?

17 MR. LAYMAN: Yes. Yeah, just to
18 the -- I'll let you ask the questions and just
19 object.

20 MS. LaROSS: Okay. And you can
21 object as I ask the question, if need be. I'm
22 not trying to lock you in there.

23 BY MS. LaROSS:

24 Q. Okay. So Mr. Gonzalez, are you aware,
25 and we don't want to say the name of the person,

1 but that one member of the FUND has been
2 identified as having been affected by
3 redistricting?

4 A. Yes.

5 Q. And what process did the FUND undertake
6 to determine that individual?

7 MR. LAYMAN: Objection to the
8 extent that it covers attorney/client privilege,
9 and conversations you had with an attorney or any
10 work product.

11 MS. LaROSS: Sure.

12 BY MS. LaROSS:

13 Q. Other than discussions with your
14 attorney, what did the FUND do to determine that
15 particular individual?

16 A. We looked at our membership list and
17 made sure that we had addresses for the folks
18 that we were looking at and made sure that they
19 were in concert with what we were particularly
20 looking for.

21 Q. And what district does that person
22 reside in?

23 A. I don't know the particular district,
24 but I know that the district is within Dekalb
25 County.

1 Q. Those are all the questions that I have
2 on that issue.

3 And if we look at topic number nine in
4 the notice, Mr. Gonzalez, and let me know when
5 you've done so.

6 A. Okay.

7 Q. And are you the designee on behalf of
8 the FUND to testify as to topic number nine?

9 A. Yes, I am.

10 Q. And other than what you've previously
11 described, was there any additional -- anything
12 additional that you reviewed in preparation for
13 your testimony on topic number nine?

14 A. No.

15 Q. And other than your conversation with
16 your attorneys, did you have any conversations
17 with anyone to prepare for your testimony on
18 topic number nine?

19 A. No.

20 MS. LaROSS: I need to go off
21 record just for a moment, Celeste.

22 (Pause in proceedings.)

23 MS. LaROSS: We can go back on the
24 record.

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C E R T I F I C A T E

G E O R G I A :
C H A T H A M C O U N T Y :

I hereby certify that the foregoing transcript was taken down, as stated in the caption, and the questions and answers thereto were reduced to typewriting under my direction; that the foregoing Pages 1 through 109 represent a true and correct transcript of the evidence given upon said hearing, and I further certify that I am not of kin or counsel to the parties in the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

Th: *Celeste Mack* 123.

Celeste Mack, CCR, RPR, 2738

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GEORGIA STATE CONFERENCE)	
NAACP, et. al.,)	CIVIL ACTION NO.
)	1:21-cv-05338-ELB-SCJ-SDG
Plaintiffs,)	THREE-JUDGE COURT
)	
v.)	Served on behalf of the Georgia State
)	Conference of the NAACP Plaintiffs.
STATE OF GEORGIA et. al.,)	
)	
Defendants.)	

Declaration of Dr. Peyton McCrary

Pursuant to 28 U.S.C. § 1746, I, Peyton McCrary, make the following declaration:

Introduction

1. My name is Peyton McCrary, and I reside in Arlington, Virginia. I have been asked by attorneys for the plaintiffs in this litigation to examine the Congressional and State legislative redistricting plans adopted by the State of Georgia following the receipt of the 2020 census redistricting data. Congress set forth specific factors it believed should guide the federal courts in applying Section 2 in its official report,¹ often identified as the “Senate Factors,” based in part on the

¹ Report of the Committee on the Judiciary on S. 1992 (Voting Rights Act Extension), U.S. Senate, 97th Cong., 2nd Sess., Report No. 97-417 (hereafter cited as 1982 Senate Report).

totality of circumstances test first articulated by the Supreme Court in *White v. Register* in 1973.² The purpose of the following report is to assess evidence relating to specific aspects of the totality of circumstances test. My primary focus is on a) Senate Factor 1, the history of racial discrimination affecting voting in Georgia; b) Senate Factor 5, the degree to which that history continues to have a discriminatory effect on the opportunity of minority citizens to participate equally in Georgia's political process; and c) Senate Factor 7, the degree to which minority citizens have been elected to public office in Georgia in recent decades. My discussion of Senate Factor 1, however, includes evidence of the history of racially polarized voting in Georgia that provides context for the quantitative analysis by another expert for the plaintiffs who is addressing Senate Factor 2.³ In addition,

² 412 U.S. 755 (1973).

³ In my article "Racially Polarized Voting in the South: Quantitative Evidence from the Courtroom," *Social Science History*, 14 (Winter 1990), 507-31, I describe the evolution of the statistical methods used in voting rights litigation in the 1970s and 1980s. I was able to evaluate the expert reports used as evidence in that article because I had previously used ecological regression and multiple regression in analyzing voting behavior in the deep South during the 19th century. See e.g., Peyton McCrary, *Abraham Lincoln and Reconstruction: The Louisiana Experiment* (Princeton, N.J., Princeton University Press, 1978), and "Class and Party in the Secession Crisis: Voting Behavior in the Deep South, 1856-1861," co-authored with Clark Miller and Dale Baum, *Journal of Interdisciplinary History*, VIII (Winter 1978), 429-57. As noted in Paragraph 5 above, my work on voting rights litigation in the Department of Justice entailed working with expert witnesses on many cases; this includes political scientists employing the technique called "ecological inference" developed by Professor Gary King of Harvard University for the purpose of analyzing patterns of voting behavior, including the degree to which voting patterns are racially polarized.

my discussion of Senate Factor 1 includes historical evidence regarding Senate Factors 3 and 6, which I will note at each point where relevant.

2. My understanding of the proper role of an expert witness, based on my 42 years of experience in voting rights litigation, is that an expert is merely to assist the court by applying the methodology generally employed in his or her field of expertise to factual questions before the court. In this declaration, therefore, as in previous expert testimony and scholarly publications, I have employed the standard methodology used by historians and political scientists in investigating the operation of election practices, and the racial effects of these practices.⁴

3. For the convenience of the court in this case I have cross-referenced prior judicial findings to place in context the evidence I provide in this declaration.⁵ In my scholarly writing I routinely utilize the factual evidence provided by court decisions. As I observed in a recent journal article: “The factual evidence

⁴ When analyzing political decision-making, historians and political scientists examine the political, institutional, and social context within which a decision is made. When examining how the political system operates, we consider quantitative evidence regarding voter behavior, the conduct of registration and voting by state or local officials, and the behavior of legislative bodies. In both types of investigations, we examine relevant scholarly studies, newspaper articles concerning events, reports of state or federal governments, and relevant court decisions as well.

⁵ However, I avoid expressing legal opinions in this declaration, as in prior sworn testimony in other cases. Although I write about the history of voting rights law in my scholarly publications and co-teach a course on voting rights law, I am a historian by training, not an attorney.

presented in court proceedings – in voting rights cases key evidence often comes in through expert witness testimony by political scientists or historians – is an invaluable resource for historical and social science research.”⁶

4. I also consider relevant coverage by newspapers and other media, correlating the information provided by journalists with documentary evidence whenever available. My analysis in this case – thus far – has been handicapped by the limited nature of the relevant state documents available through discovery. This has made coverage of the redistricting process through newspaper reporting more probative, as the best available evidence on key questions. Should additional documents pertinent to my investigation emerge through discovery in this case, it would provide an opportunity for further exploration of the decision-making process leading to the adoption of these redistricting plans, and – potentially – the degree to which the plans were designed to have a racially discriminatory impact.

Qualifications

5. I am an historian by training and taught history at the university level from 1969 until 1990. During the 1980s, while teaching at the University of South Alabama, I served as an expert witness in numerous voting rights cases in the South. From 1990 until my retirement in 2016, I was employed by the Voting

⁶ Peyton McCrary, “The Interaction of Policy and Law: How the Courts Came to Treat Annexations under the Voting Rights Act,” *Journal of Policy History*, 26 (No. 4, 2014), 429-58 (quoted sentence at p. 431).

Section, Civil Rights Division, of the Department of Justice. My responsibilities in the Civil Rights Division included the planning, direction, coordination, and performance of historical research and empirical analysis for voting rights litigation, including the identification of appropriate expert witnesses to appear for the government at trial. I worked with experts in analyzing: 1) the adoption and maintenance of election laws; 2) the statistical analysis of racially polarized voting; 3) the use of database matching techniques in the construction of statewide voter registration databases; and 4) other issues relating to the conduct of elections. Since 1981, I have testified in court in 19 voting rights cases. In addition, I have presented sworn written testimony as an expert in 18 cases.

6. I received B.A. and M.A. degrees in History from the University of Virginia in 1965 and 1966, respectively, and obtained my Ph.D. in History from Princeton University in 1972. My primary training was in the history of the United States, with a specialization in the history of the South during the 19th and 20th centuries. Before beginning work at the United States Department of Justice, I taught courses in my specialization at the University of Minnesota, Vanderbilt University, and the University of South Alabama for 20 years. I took a leave from my position at the Department of Justice in 1998-1999 to serve as the Eugene Lang [Visiting] Professor at Swarthmore College; I taught two political science courses: Law and the Political Process in the fall semester and Civil Rights Policy in the

spring semester. For the last 15 years I have co-taught a course on voting rights law as an adjunct professor at the George Washington University Law School.

7. I have published a prize-winning book, *Abraham Lincoln and Reconstruction: The Louisiana Experiment* (Princeton, N.J., Princeton University Press, 1978) (winner of the L. Kemper Williams Prize of the Louisiana Historical Association), six law review articles, seven articles in refereed journals, and seven chapters in refereed books. Over the last 37 years my published work has focused on the history of discriminatory election laws in the South, evidence concerning discriminatory intent or racially polarized voting presented in the context of voting rights litigation, and the impact of the Voting Rights Act in the South.

8. I explain the methods of assessing the discriminatory effects of challenged election procedures in: "Bringing Equality to Power: How the Federal Courts Transformed the Electoral Structure of Southern Politics, 1960-1990," *University of Pennsylvania Journal of Constitutional Law*, 5 (May 2003), 665-708; "Racially Polarized Voting in the South: Quantitative Evidence from the Courtroom," *Social Science History*, 14 (Winter 1990), 507-31; and "Discriminatory Intent: The Continuing Relevance of 'Purpose' Evidence in Vote-Dilution Lawsuits," *Howard Law Journal*, 28 (No. 2, 1985), 463-93 (quoted in *Thornburg v. Gingles*, 478 U.S. 30, 73 (1986)). With co-authors I have also addressed the effects of challenged election practices in "Alabama," co-authored

with Jerome A. Gray, Edward Still, and Huey Perry, and "South Carolina," co-authored with Orville Vernon Burton, Terence R. Finnegan, and James W. Loewen, in Chandler Davidson and Bernard Grofman (eds.), *Quiet Revolution in the South: The Impact of the Voting Rights Act, 1965-1990* (Princeton, N.J., Princeton University Press, 1994), 38-66, 397-409. This co-authored book was awarded the Richard Fenno Prize of the American Political Science Association.

9. Some of my published work focuses specifically on Georgia. I address the intent underlying the adoption of at-large elections – and the racially discriminatory effects of the at-large system – in a major Georgia city in "The Dynamics of Minority Vote Dilution: The Case of Augusta, Georgia, 1946-1986," *Journal of Urban History*, 25 (Jan. 1999), 199-225. In "Race and Reapportionment, 1962: The Case of Georgia Senate Redistricting," co-authored with Steven F. Lawson, *Journal of Policy History*, 12 (No. 3, 2000), 293-320, we examine the intent underlying the use of multi-member districts in the first legislative redistricting following the decision in the malapportionment case *Toombs v. Fortson*, 205 F. Supp. 248 (N.D. Ga. 1962). In "The End of Preclearance as We Knew It: How the Supreme Court Transformed Section 5 of the Voting Rights Act," 11 *Mich. J. Race & L.* 275 (2006) (co-authored with Christopher Seaman and Richard Valelly), reproduced before publication in *Voting Rights Act: Section 5 Preclearance and Standards: Hearings Before the*

Subcomm. on the Constitution of the H. Comm. on the Judiciary, 109th Cong. 96-181 (2005), we recount the facts regarding Georgia congressional redistricting in 1981 and Georgia legislative redistricting in 2001.

10. Over the last four decades I have published numerous reviews of books in my areas of specialization and served as a scholarly referee for numerous journals and university presses. I continued to publish scholarly work in my areas of expertise while employed by the Department of Justice and expect to continue my scholarly writing now that I have retired from government service. A detailed record of my professional qualifications, a curriculum vitae, which I prepared and know to be accurate, is attached as Exhibit 1 to this Report. My rate of compensation for work on this case is \$350.00 per hour, my standard rate for serving as a consultant or expert witness.

Senate Factor 1: The History of Discrimination Affecting Voting

11. There is a long history of racial discrimination affecting voting in Georgia that applies specifically to Black Georgians. Among recent examples of court decisions noting this history, see: a) *Rose v. Raffensperger*, No. 1:20-cv-02921-SDG, slip op. at 42 (N.D. Ga., August 5, 2022), at 42 ;⁷ b) *Fair Fight Action v. Raffensperger*, No. 1:18-CV-5391-SCJ, slip op. at 41, Order (N.D. Ga.

⁷ According to the court (citing Paragraph 8 of the Joint Stipulation in this case), “it is undisputed that Georgia has a ‘well-documented history of discrimination against its Black citizens.’”

November 15, 2021);⁸ c) *Wright v. Sumter County Board of Elections*, 301 F. Supp.3d 1297, 1310 (M.D. Ga. 2018);⁹ and d) *Georgia State Conf. NAACP v. Fayette County Board of Commissioners*, 950 F. Supp.3d 1294, 1314 (N.D. Ga. 2013).¹⁰

The State of Minority Voting Rights in Georgia, 1945-1965

12. Shortly after the United States Supreme Court struck down the Texas white primary in 1944,¹¹ Georgia’s white primary – in which Democratic party rules restricted voting to white registered voters – was successfully challenged in *King v. Chapman*.¹² Once the Democratic white primary – the only election that mattered in one-party Georgia – was struck down, the state’s long-standing voter registration law became more important than ever to Georgia political leaders as a way of minimizing the number of Black Georgians registered to vote.¹³

⁸ Taking “judicial notice of this fact,” the court observed: “Defendants do not contest that ‘prior to the 1990s, Georgia had a long sad history of racist policies in a number of areas including voting.’”

⁹ “Georgia has a history chocked full of racial discrimination at all levels . . . ratified in state constitutions, enacted into state statutes, and promulgated in state policy.”

¹⁰ “It is wholly unnecessary, however, to recount the voluminous details of Georgia’s history in this Order,” observed the court, which it could “all but take judicial notice thereof.”

¹¹ *Smith v. Allwright*, 321 U.S. 649 (1944).

¹² 62 F. Supp. 639 (M.D. Ga. 1945), *aff’d* 154 F.2d 450 (5th Cir. 1946).

¹³ Beginning with a statute enacted in 1908, Georgia had restricted the registration of voters to: 1) persons who served in any war on behalf of the United States or the Confederate states, or who was a lawful descendant of a person who fought in those wars (that is, a “grandfather clause”); 2) a person of “good character” who

13. In order to create a more difficult registration hurdle, the state adopted a re-registration law in 1949, requiring *all* voters to register again under a new literacy test. Under this test voters would have to demonstrate their ability to read and write or answer correctly at least 10 of 30 factual questions.¹⁴ In 1958 Georgia adopted a new voter registration act that increased the number of correct answers to factual questions asked of prospective registrants who were illiterate.¹⁵ Instead of 10 out of 30 questions (as in the 1949 law) a person who could not read or write had to answer correctly 20 of 30 questions to the satisfaction of the county registrar. Among the questions asked were what qualifications a candidate had to

understood the duties and obligations of citizenship (a standard allowing broad discretion for racial discrimination); 3) a person who was able to read and write correctly any paragraph of either the federal or state constitutions (to be assessed by registrars who rarely had education beyond high school and who had no legal training); or 4) a person who owned 40 acres of land or \$500.00 worth of taxable property. Dewey W. Grantham, Jr., *Hoke Smith and the Politics of the New South* (Baton Rouge, Louisiana State University Press, 1958), 159; Laughlin McDonald, Michael B. Binford, and Ken Johnson, "Georgia," in Chandler Davidson and Bernard Grofman (eds.), *Quiet Revolution in the South: The Impact of the Voting Rights Act, 1965-1990* (Princeton, NJ, Princeton University Press, 1994), 69-70, 410; Joseph L. Bernd and Lynwood M. Holland, "Recent Restrictions Upon Negro Suffrage: The Case of Georgia," *Journal of Politics*, 21 (1959), 488.

¹⁴ Bernd and Holland, "Recent Restrictions," 492, 496; *Franklin v. Harper*, 55 S.E.2d 221, 227 (Ga. 1949). This re-registration law proved to be as difficult for whites as well as blacks and under heavy pressure the state amended it to allow persons already registered before 1949 to remain eligible to vote. Bernd and Holland, "Recent Restrictions," 496.

¹⁵ *Id.* Bernd and Holland contend that the new law was likely motivated by the fact that the NAACP had inaugurated a voter registration drive in Georgia and "the number of persons of color eligible for the franchise was rising throughout the South."

possess to run for the Georgia General Assembly, how the writ of habeas corpus can be suspended, or what procedures were required to amend the U.S.

Constitution. Contemporary political scientists contended that the “principal intent of the literacy test is racial discrimination.”¹⁶ The tests were often administered by unsympathetic white persons with little legal education or training – but even if administered fairly, notes one study, the questions “were difficult for even the best educated person to answer.”¹⁷

14. The burden of satisfying even a fairly administered literacy test was especially great for Blacks in Georgia because they were the victims of many years of inferior public education in segregated schools, putting them at a marked disadvantage compared with white Georgians. In 1940 the average per-pupil expenditure for white schools in the state was \$46.70, compared with only \$14.61 for Blacks. By 1952 the degree of racial disparity had narrowed, with the average per-pupil expenditure for whites at \$163.76 and for Blacks at \$110.59. This

¹⁶ Bernd and Holland, “Recent Restrictions,” 498. In their view the “most pervasive type of discrimination in registration involves the failure to apply the [literacy] test to white persons,” which is “just as definitely a denial of equal protection to Negroes as is the most sordid device to keep the latter away from the ballot box.”

¹⁷ McDonald, et.al., “Georgia,” in Davidson and Grofman (eds.), *Quiet Revolution in the South*, 71, 410.

history of Georgia’s racially discriminatory educational policies is relevant to the later analysis of Senate Factor 5 in this report.¹⁸

15. One characteristic of Georgia elections in those days was quite different from the years following 1962. Political leaders always knew how many Black Georgians voted on election day – and for which candidates they voted – because ballot boxes were segregated in each polling place and the returns were reported by race, until the practice was struck down as racially discriminatory by a federal court in 1962.¹⁹ That enabled them to talk about the “Negro bloc” vote, with actual proof as to which candidates Black Georgians supported in each election.²⁰ In light of these direct measures of voting by race, no statistical inference was required.

16. Wherever Blacks were able to surmount the state’s barriers to voter registration, Georgia turned to practices that would dilute minority voting strength. Political leaders in the city of Augusta decided to switch from ward to at-large elections in 1953 to minimize the chances of Black candidates winning a seat on the Augusta city council.²¹ The plan retained the old wards as residency districts –

¹⁸ Harry S. Ashmore, *The Negro and the Schools* (Chapel Hill, University of North Carolina Press, 1954), 153 (Table 8).

¹⁹ Peyton McCrary, “The Dynamics of Minority Vote Dilution: The Case of Augusta, Georgia, 1945-1986,” *Journal of Urban History*, 25 (January 1999), 220 n. 18. The decision eliminating the segregated ballot boxes was *Anderson v. Courson*, 203 F. Supp. 806 (M.D. Ga. 1962).

²⁰ McCrary, “The Dynamics of Minority Vote Dilution,” 203, 220 n. 18.

²¹ *Id.*, 208-11.

meaning that candidates had to reside within a specific ward but were elected citywide, which had the effect of preventing the use of single-shot voting and thus enhanced the discriminatory potential of the at-large system. This is an example of what would later be termed an “enhancing device” under Senate Factor 3 of the totality of circumstances test.²²

17. For the same purpose the legislature adopted multi-member districts for the state senate in 1962, explicitly announcing the goal of preventing a black candidate from being elected a member of the state senate.²³ In that year the United States Supreme Court decided that constitutional challenges to malapportioned legislative districts were justiciable in a Tennessee case known as *Baker v. Carr*.²⁴ As a result a federal court in Georgia promptly ruled in *Toombs v. Fortson* that the Georgia state legislature was malapportioned.²⁵ To comply with the court’s legislative redistricting order, the legislature had to reapportion at least one of its two houses. Under Georgia law the state senate could be redistricted by

²² *Id.*, 204, 211, 220 n.24, 223 n.70.

²³ See Peyton McCrary and Steven F. Lawson, “Race and Reapportionment, 1962: The Case of Georgia Senate Redistricting,” *Journal of Policy History*, 12 (No. 3, 2000), 293-320.

²⁴ 369 U.S. 136 (1962).

²⁵ 205 F. Supp. 248 (N.D. Ga. 1962). The same year a federal court found the state’s county unit system for electing statewide officeholders – which allocated “county unit” votes to each county based on its seats in the malapportioned state house – unconstitutional. *Gray v. Sanders*, 203 F. Supp. 158 (N.D. Ga. 1962). This decision was ultimately upheld by the Supreme Court in *Gray v. Sanders*, 372 U.S. 368 (1963).

statute but reapportioning the state house would require a constitutional amendment.²⁶ In Fulton County, Blacks were registered and voting at high enough levels to concern white political leaders in 1962. Led by Carl Sanders, the president pro tem of the state senate who had just won the Democratic gubernatorial primary – when the Democratic primary was still the only election that mattered in Georgia – the legislature voted to require multi-member districts for all counties with population that entitled them to more than one senator.²⁷ Sanders was a resident of Augusta, which had adopted at-large elections for the city council in 1953 to prevent the election of Blacks.²⁸

18. Several senators pointed out that the state constitution required “one Senator from each district,” but the majority pressed ahead with a multi-member plan.²⁹ As the floor leader for the bill, veteran legislator Frank Twitty from south Georgia, put it: “I am not going to vote for anything that would automatically put a member of a minority race in the Senate,” and as he saw it “without countywide races a Negro would almost certainly be elected to the Senate from Fulton County.”³⁰ A state court subsequently ruled that the state constitution required the 1962 elections for the reapportioned state senate to be conducted on a single-

²⁶ McCrary and Lawson, “Race and Reapportionment, 1962,” 316 n.61.

²⁷ *Id.*, 302-03.

²⁸ McCrary, “Dynamics of Minority Vote Dilution,” 208-11.

²⁹ McCrary and Lawson, “Race and Redistricting,” 303, 316 n. 65.

³⁰ *Id.*, 304, 317.

member district basis, despite the actions of the legislature establishing multi-member districts.³¹ As a result of the court-ordered single-member senate districts, attorney Leroy Johnson became the first Black person elected to the Georgia legislature since Reconstruction.³²

19. Within a few months the Georgia House adopted a bill providing for a majority vote requirement, which its most vocal sponsor, Representative Denmark Groover of Bibb County, described as a way of reducing the chance that the “Negro bloc vote” could elect a candidate of its choice. The following year the majority vote requirement for all elections was added to the Georgia election code and is still good law today.³³ This evidence is especially relevant to Senate Factor 3 of the totality of circumstances test.

How the Voting Rights Act Worked, 1965-1999

20. The Voting Rights Act of 1965 abolished the literacy test for voter registration employed by Georgia, as by other states, primarily in the South. Georgia was covered under the formula in Section 4 of the Act – and thus covered by the preclearance requirement under Section 5 of the Act, as well as by the

³¹ *Id.*, 305-06, 318 notes 88-91. The trial court judge in question was Judge Durwood Pye, an ardent segregationist who nevertheless believed in enforcing the Georgia constitution, and he was upheld by the state supreme court.

³² *Id.*, 305-06, 318-19.

³³ J. Morgan Kousser, *Colorblind Injustice: Minority Voting Rights and the Undoing of the Second Reconstruction* (Chapel Hill, University of North Carolina Press, 1999), 226-32.

provision suspending its literacy test – because its total voter registration, white as well as Black, was under 50 percent of the total voting age population (because most states did not – and still do not – maintain registration and turnout data by race – unlike Georgia).³⁴ Reliable data on voter registration by race documents that Blacks in Georgia were 27 percent of the registered voters before the Act and whites were 63 percent.³⁵ The Act’s elimination of tests or devices and the threat of federal examiners taking over voter registration in recalcitrant counties, led to substantial gains in black voter registration in Georgia, as in other covered jurisdictions. As of 1971 Black registration in Georgia had jumped to 68 percent of the Black voting age population, while whites had increased only to 71 percent of the white voting age population.³⁶

21. After publication of the 1970 decennial census, Georgia drew new redistricting plans for both state house and state senate to comply with the one person, one vote standard, and submitted both for preclearance under Section 5 of the Voting Rights Act. The Attorney General objected to the house plan because it diluted minority voting strength by increasing the number of multi-member districts and requiring candidates in those multi-member districts to compete for

³⁴ U.S. Commission on Civil Rights, *The Voting Rights Act: Ten Years After* (Washington, D.C. 1975), 5.

³⁵ *Id.*, 53.

³⁶ *Id.*

individually numbered posts and meet a majority vote requirement. Shortly thereafter the use of numbered posts and a majority vote requirement would be classified as “enhancing devices” under Senate Factor 3 of the totality of circumstances test.³⁷ The state refused to revise the house plan and contended that Section 5 preclearance was not required for redistricting plans. The United States sued to enforce its objection and the courts ruled against Georgia.³⁸ The state adopted a new house plan in 1974, with fewer multi-member districts and 24 majority-black districts. In the 1974 elections 19 Black candidates won seats in the house and two won senate seats.³⁹

22. Black plaintiffs filed numerous lawsuits challenging the use of at-large elections for local governing bodies in the 1970s, winning some and settling others favorably. In the highest profile case, Burke County plaintiffs won at the trial court level, at the Fifth Circuit, and at the Supreme Court.⁴⁰ The Court’s findings reflect the sort of factual evidence found in many of the other Georgia cases. Burke County was almost as large as Rhode Island, making it difficult to campaign at large. In addition, the difficulties of running countywide were enhanced by

³⁷ *Georgia v. United States*, 411 U.S. 526, 528-30; Laughlin McDonald, *A Voting Rights Odyssey: Black Enfranchisement in Georgia* (New York, Cambridge University Press, 2003), 148.

³⁸ See *Georgia v. United States*, at 530-32.

³⁹ McDonald, *A Voting Rights Odyssey*, 148.

⁴⁰ *Rogers v. Lodge*, 458 U.S. 613 (1982).

numbered posts and a majority vote requirement,⁴¹ as well as the racial segregation that affected every aspect of social contacts between whites and blacks. There was also strong evidence that county commissioners were unresponsive to the policy interests of African Americans. Above all, there was “overwhelming evidence of bloc voting along racial lines.”⁴² The Court also affirmed the lower courts’ finding that Burke County had intentionally maintained its at-large elections because the county’s legislative delegation had “retained a system which has minimized the ability of Burke County Blacks to participate in the political system.”⁴³

23. Following publication of the 1980 decennial census, Georgia’s congressional redistricting plan failed to secure preclearance under Section 5.⁴⁴ The case turned on the facts surrounding the fifth congressional district, centered in the capital city of Atlanta. Black civil rights leader Andrew Young had represented the district during the mid-1970s when whites made up a majority of its voting-age population, but when he left to head the United Nations delegation in 1977 the district elected a moderate white Democrat, Wyche Fowler. After the 1980 census,

⁴¹ As noted in the preceding paragraph, numbered place and majority vote requirements were cited in Senate Factor 3 of the totality of circumstances test as “enhancing devices.”

⁴² *Id.*, at 623.

⁴³ *Id.*, at 626. See the discussion in McCrary, “Discriminatory Intent: The Continuing Relevance of ‘Purpose’ Evidence in Vote-Dilution Lawsuits,” 28 *Howard L.J.* 463, 477-80 (No. 2, 1985), of the record before the lower courts.

⁴⁴ *Busbee v. Smith*, 549 F. Sup. 494 (D.D.C. 1982), *aff’d mem.*, 459 U.S. 1166 (1983).

the legislature increased the Black population percentage in the fifth district to 57 percent, but whites were still 54 percent of the registered voters.⁴⁵ Because voting patterns had become more racially polarized in recent years, most observers believed that the Black concentration in the newly configured district was not great enough to provide Black voters an equal opportunity to elect a candidate of their choice.⁴⁶

24. The trial court found abundant evidence, both direct and circumstantial, that “[t]he Fifth District was drawn to suppress black voting strength.”⁴⁷ For example, a key player in the legislative decision-making process, Joe Mack Wilson, who chaired the House Reapportionment Committee, complained to fellow legislators that “the Justice Department is trying to make us draw nigger districts and I don’t want to draw nigger districts.”⁴⁸ The trial court also found that Speaker Tom Murphy “purposefully discriminated on the basis of race in selecting the House members of the conference committee where the final redistricting plan was determined,” in that he selected white legislators “he knew would adamantly oppose the creation of a congressional district in which black voters would be able

⁴⁵ *Id.*, at 498.

⁴⁶ *Id.*, at 499.

⁴⁷ *Id.* at 515.

⁴⁸ *Id.*, at 501, 144-45. Wilson was also quoted as saying “I’m not for drawing a nigger district and I’m not for drawing a Republican district.” *Id.* at 512. According to the trial court, “Wilson uses the term ‘nigger’ [routinely] to refer to black persons.” *Busbee*, at 500.

to elect a candidate of their choice,” and refused to appoint any Black members to the conference committee.⁴⁹

25. Because the redistricting plan had a racially discriminatory purpose, it was not entitled to preclearance, even though it was ameliorative rather than retrogressive in effect. As the three-judge court stated, “[s]imply demonstrating that a plan increases black voting strength does not entitle the State to the declaratory relief it seeks; the State must also demonstrate the absence of discriminatory purpose.”⁵⁰ The court found the plan objectionable “because State officials successfully implemented a scheme designed to minimize black voting strength,” and as a result the plan was “not free of racially discriminatory purpose.”⁵¹

26. After Congress amended Section 2 of the Act in 1982 to make it possible for plaintiffs to challenge discriminatory election laws under a results test, without the necessity of proving that the practice was adopted or maintained with a racially discriminatory purpose,⁵² the number of successful lawsuits in Georgia

^{49.} *Id.* at 510. Murphy explained at trial that he was concerned that “we were gerrymandering a district to create a black district where a black would certainly be elected.” *Id.* at 509–10.

^{50.} *Id.* at 516.

^{51.} *Id.* at 518.

^{52.} The 1982 amendment of Section 2 was designed to create a statutory route around the decision in *City of Mobile v. Bolden*, 446 U.S. 55 (1980) which, like other vote dilution cases beginning in 1973, was decided under the 14th Amendment. See McCrary, “History in the Courts: The Significance of *City of*

jumped dramatically.⁵³ A systematic study of Georgia cities and counties over 10,000 with over 10 percent black populations found that between 1980 and 1990 many of the jurisdictions surveyed switched from at-large to single-member district elections.⁵⁴ Litigation under Section 2 – or sometimes the mere threat of litigation – was the primary cause of these changes. The result of the change to single-member districts was a substantial increase in the percentage of elected officials in both cities and counties.⁵⁵

27. Georgia continued to erect barriers to Black registration and voting after 1965. In 1966 the state amended the law permitting assistance to illiterate voters – which in the past allowed one individual to assist up to 10 illiterate voters in casting their ballot at the polls – “to provide that no person might assist more than one such voter.”⁵⁶ In 1968 the Department of Justice objected to that change under the preclearance requirement set forth in Section 5 of the Act.⁵⁷

Mobile v. Bolden," in Chandler Davidson (ed.), *Minority Vote Dilution* (Washington, D.C., Howard University Press, 1984), 47-65.

⁵³ McDonald, *Voting Rights Odyssey*, 182-84.

⁵⁴ The elimination of numbered place and majority vote requirements (classified as enhancing devices under Senate Factor 3) was often a target in Section 2 litigation.

⁵⁵ McDonald, et.al., “Georgia,” 77-81, 91-100 (Tables 3.1-3.8).

⁵⁶ *Morris v. Fortson*, 261 F. Supp. 538, 541 (N.D. Ga. 1966).

⁵⁷ Objection letter from Stephen J. Pollak to Arthur K. Bolton, July 11, 1968. Section 5 required that in all jurisdictions covered under the formula provided in Section 4 of the Act secure federal approval – either administratively through the Civil Rights Division of the Department of Justice or through a declaratory judgment by a three-judge court in the District of Columbia – before *any* voting change could legally be enforced.

28. In 1981 the state adopted a similar change, reducing the number of illiterate or disabled voters a person could assist from ten to five. The Department objected to this change as well, noting that “our analysis reveals that a disproportionately larger number of black than white voters depend on assistance in order to effectively exercise their right to vote.”⁵⁸ According to the available census data 32 percent of Blacks aged 25 and over have completed less than five years of school, compared to eight percent of whites aged 25 and over, the Department noted.⁵⁹ Based on years of examining elections in Georgia, the Department had concluded that “the vast majority of voters who request assistance because of illiteracy are black,” and that in Georgia “it is common for more than five black voters to receive assistance from the same person.”⁶⁰

29. In 1984 private plaintiffs sued state officials on behalf of minority citizens seeking, among other changes to the state’s voter registration procedures, the appointment of more Black deputy registrars and the creation of additional satellite voter registration sites.⁶¹ When the state, under the leadership of Secretary

⁵⁸ Objection letter from William Bradford Reynolds to Michael Bowers, September 18, 1981, 2-3. In the same letter the Department objected to a change in the procedures for voter identification, which gave wide discretion to local registrars to determine which documents were (and were not) sufficient to identify the person seeking to register.

⁵⁹ *Id.*, 3. The latest available census data at the time of the objection were from the 1970 census.

⁶⁰ *Id.*

⁶¹ *Voter Education Project v. Cleland*, CA84:1181A (N.D. Ga. 1984). See the

of State Max Cleland, agreed to encourage local boards of registrars to appoint more black deputy registrars and provide more satellite registration locations, the court dismissed the case.⁶² The State Board of Elections then adopted regulations that “established minimum requirements for the provision of satellite registration opportunities,” according to the Department of Justice.⁶³ The new regulations included “a formula specifying the minimum number of satellite locations in each county and requiring that satellite locations be open a minimum number of weekend and weekday evening hours.”⁶⁴

30. The Department objected in 1994 to some aspects of Georgia’s changes designed to comply with the National Voter Registration Act of 1993 (NVRA).⁶⁵ The NVRA “specifically provides” that procedures for removing registered voters

summary in Laughlin McDonald and Daniel Levitas, *Voting Rights Litigation, 1982-2006: A Report of the Voting Rights Project of the American Civil Liberties Union* (March 2006), 161-63.

⁶² McDonald, et.al., “Georgia,” in Davidson and Grofman (eds.), *Quiet Revolution in the South*, 76, 411.

⁶³ Objection letter from John R. Dunne to Mark H. Cohen, February 11, 1992, 1-2.

⁶⁴ *Id.* When Georgia tried to cut back on the availability of satellite registration in 1991, the Department of Justice objected to amendments that would “reduce the minimum number of permanent satellite voter registration locations established by certain counties and eliminate the requirement for Saturday registration hours” for satellite registration sites other than for “months when “potentially significant elections regularly occur,” the Department pointed out. African Americans of voting age still registered at “a significantly lower rate than voting age whites.” At the time of the November 1990 general election “only 52.3 percent of voting age blacks were registered compared to 62.1 percent of eligible whites.” *Id.*, 1-2.

⁶⁵ The changes were set forth in Georgia Act No. 1207 (1994). See the Objection letter from Deval Patrick to Dennis Dunn, October 24, 1994.

from the registration rolls “shall not” result in the removal of any person from the registration rolls for Federal office “by reason of the person’s failure to vote.”⁶⁶ In response to this objection the state amended its election laws to comply with the NVRA, according to the trial court in a later case.⁶⁷ Among these changes in 1995 “Georgia began keeping statewide voter registration data.”⁶⁸ This change helped the state to develop the statewide voter registration database required by federal legislation following the controversy surrounding the disputed presidential election of 2000.

31. During the period between 1965 and the Supreme Court’s decision in *Shelby v. Holder*, the Department of Justice blocked 177 proposed changes to election law by Georgia and its counties and municipalities. Of these Section 5 objections, 48 blocked redistricting plans – 13 of them objections to state house, state senate, or congressional plans.⁶⁹ Another 68 blocked adoption of *enhancing devices* such as numbered place or majority vote requirements, staggered terms, or residency districts used in at-large election systems.⁷⁰

⁶⁶ *Id.*, 1, 3.

⁶⁷ *Schwier v. Cox*, 412 F. Supp. 2d 1266, 1268 n.3 (N.D. Ga. 2005).

⁶⁸ *Id.*, at 1269. The court noted (p. 1272) that the state “admits that there was no centralized system in place prior to 1995.”

⁶⁹ <https://www.justice.gov/crt/voting-determination-letters-georgia>.

⁷⁰ *Id.*

Realignment in the Georgia Party System

32. The defeat of incumbent Governor Roy Barnes, a Democrat, by Republican challenger Sonny Perdue in the 2002 gubernatorial election was, according to political scientists Danny Hayes and Seth McKee, “more than stunning – it was historic.” The outcome “broke a Democratic stronghold on the Georgia governorship that had kept the GOP out since Reconstruction.”⁷¹ It signaled, moreover, what proved to be a major realignment in the Georgia party system. Since 2002 Republicans have, as political scientists M.V. Hood and Seth McKee observe, consistently won most statewide contests and controlled majorities in the state senate (beginning in 2002) and the state house (since 2004).⁷²

33. Historians and political scientists distinguish between two types of partisan realignment in the United States: secular and critical realignment. Secular

⁷¹ Danny Hayes and Seth C. McKee, “Booting Barnes: Explaining the Historic Upset in the 2002 Georgia Gubernatorial Election,” *Politics and Policy*, 32 (December 2004), 1. The Democrats still commanded majorities in both houses of the General Assembly until 2002

⁷² M.V. Hood III and Seth C. McKee, “Why Georgia, Why? Peach State Residents’ Perceptions of Voting-Related Proprieties and Their Impact on the 2018 Gubernatorial Election,” *Social Science Quarterly*, 100 (No. 5, 2019), 1828, 1830. The legislative redistricting plans in place at the time of the 2002 elections were adopted by the state in 1997, following the Supreme Court decisions in *Miller v. Johnson*, 515 U.S. 900 (1996), and *Abrams v. Johnson*, 521 U.S. 74 (1997). They were precleared by the U.S. Attorney General, and first implemented in the 1998 elections: Pamela S. Karlan, “*Georgia v. Ashcroft* and the Retrogression of Retrogression,” *Election Law Journal*, (No. 4, 2004), at 24.

realignment is gradual, incremental realignment, in which groups of voters change their party identification and voter preferences in a consistent trend over a significant amount of time. Critical realignment, on the other hand, refers to a rapid change in the outcome of elections that fundamentally reshapes the balance of power between the parties for perhaps a generation.⁷³

34. Georgia has experienced a secular realignment of white voters leaving the Democratic Party and switching to the Republican Party – beginning in the 1960s with white opposition to the 1964 Civil Rights Act and the 1965 Voting Rights Act – but accelerating in the two decades preceding 2002.⁷⁴ The 2002 gubernatorial election, on the other hand, looks like part of a critical realignment in the Georgia party system – accelerating the pattern of white movement into the Republican Party and reaching a critical mass that gave the Republicans long-standing control of state government and politics.⁷⁵

⁷³ See, e.g., V.O. Key, Jr., “A Theory of Critical Elections,” *Journal of Politics*, 17 (February 1955), 3-18; Walter Dean Burnham, “The Changing Shape of the American Political Universe,” *American Political Science Review*, 59 (March 1965), 7-28; Burnham, *Critical Elections and the Mainsprings of American Politics* (New York, W.W. Norton, 1970); James L. Sundquist, *Dynamics of the Party System* (Washington, D.C. The Brookings Institution, 1970).

⁷⁴ Hayes and McKee, “Booting Barnes,” 709. See also *id.*, Figure 2, p. 710, Table 1, pp. 712-13; Charles S. Bullock III, “The History of Redistricting in Georgia,” 52 *Ga. L. Rev.* 1057, 1092 (2018).

⁷⁵ See, e.g., Charles S. Bullock III, “Georgia: Republicans at the High-Water Mark?” in Bullock and Mark J. Rozell (eds.), *The New Politics of the Old South* 5th edition (New York, Rowman & Littlefield, 2014), 49, 51 (Table 2.1).

A Long History of Racially Polarized Voting

35. In white-majority Georgia during the 21st century Republicans – like Democrats earlier – have benefitted from a pattern of voting that was polarized along racial lines.⁷⁶ The pattern was evident in the 2002 election. As political scientist Charles Bullock points out, “the relationship between race and voting in 2002 was striking.”⁷⁷ Despite the long decades of racially polarized voting – both in the years when a Democratic majority controlled state politics and long after Republicans became the majority party in Georgia – Black candidates have seldom been elected to office in more than token numbers, except from black-majority districts created as a result of successful voting rights lawsuits brought under Section 2 of the Voting Rights Act after Congress amended the statute in 1982.⁷⁸ Fairly drawn single-member districts provided a means for increasing minority representation *in spite of* white refusal to vote for minority-preferred candidates.⁷⁹

36. A recent study by Bullock and fellow political scientist Ronald Keith Gaddie provides evidence that statewide voting patterns in Georgia continued to be polarized along racial lines into the 21st century. Increasingly, however, white voters were switching from the Democratic to the Republican Party. In the 1990s

⁷⁶ Hood and McKee, “Booting Barnes,” 709.

⁷⁷ Bullock, “Georgia,” 58.

⁷⁸ McDonald, et.al., “Georgia,” 77-81, 91-100 (Tables 3.1-3.8).

⁷⁹ *Id.*, 84-85, 412-13 (citing judicial findings of racially polarized voting in Notes 118-125 (p. 84)).

African American congressional candidates running as Democrats enjoyed between 77 and 100 percent of black votes, but only 18-54 percent of white votes. Between 30 and 45 percent of white voters in the state supported Democratic candidates in the 1990s, but only about a quarter of whites voted Democratic beginning in 2002. Black voters favored Democratic candidates by 85 to 92 percent.⁸⁰ Such polarized voting is evidence of vote dilution, of course, only in contests where minority-preferred candidates usually lose.⁸¹

37. Exit poll data have consistently demonstrated that Black voters are the most reliably Democratic voters in Georgia, whereas most whites consistently vote Republican.⁸² In their 2009 study Bullock and Gaddie report, based on exit poll results, that “since 1992, Democrats have always taken at least 80 percent of the black vote while most whites invariably preferred Republicans.”⁸³ Exit polls in statewide elections for federal office from 1992 through 2006 show that Blacks

⁸⁰ Charles S. Bullock III and Ronald Keith Gaddie, *The Triumph of Voting Rights in the South* (Norman, University of Oklahoma Press, 2009), 101 (Table 3.6).

⁸¹ See, e.g., Bernard Grofman, Lisa Handley, and Richard G. Niemi, *Minority Representation and the Quest for Voting Equality* (New York, Cambridge University Press, 1992), 50-51.

⁸² The fact that partisan identification was becoming more racially polarized than in the past does *not* suggest that the *cause* of the polarized voting was partisanship rather than race. Racially polarized voting was the dominant pattern in interracial contests both under Democratic majorities and, after 2002, under Republican majorities.

⁸³ Bullock and Gaddie, *Triumph of Voting Rights*, 100.

supported the Democratic candidate at rates between 81 and 92 percent, whereas whites voted Democratic at rates between 23 and 45 percent.⁸⁴

38. Georgia elections, like elections elsewhere in the United States, are usually characterized by racial disparities in voter participation.⁸⁵ Official data on turnout by race – such as Georgia provides – reveal that, from 1992 through 2006, the white percentage of registered voters who turned out to vote in the general election for president – normally the highest turnout election for all voters – was consistently higher than for Black Georgians. In the 1996 presidential election, for example, white turnout was 64.3 percent and Black turnout only 53.5 percent. In 2000 the presidential election brought 71.4 percent of whites to the polls but only 62.8 percent of Blacks. In the 2004 contest white turnout was at 80.4 percent and Black turnout at only 72.2 percent.⁸⁶

39. The election of the first Black president in 2008 was seen by some as a sign that racially polarized voting had declined in the United States – and in the South. In fact, if we look at exit poll data for the nation – as well as for Georgia

⁸⁴ *Id.*, 100, 103 (Table 3.8).

⁸⁵ Bullock and Gaddie cite the estimates of registration and turnout by race for Georgia from 1980 through 2006 published by the Bureau of the Census. *Id.*, at 380 (Table B.1: registration by race), and 383 (Table B.2: turnout by race). The Census Bureau at that time included Hispanics with non-Hispanic whites in the published estimates of white voters; correcting that error, Bullock and Gaddie report that non-Hispanic white registration and turnout in Georgia continues to exceed that for Blacks, according to the Census estimates.

⁸⁶ *Id.*, 86 (Table 3.2).

and other states formerly covered by the preclearance requirements of Section 5 of the Voting Rights Act – the pattern looks quite different. Based on exit poll data, three respected political scientists found that “the magnitude of race-based differences in voting preferences *increased* across the nation in the 2008 election,” but especially in Georgia and other Southern states.⁸⁷ Turnout among Blacks increased from 2004 to 2008, “and they voted more solidly for the Democrats in 2008 than they did in 2004.”⁸⁸ The level of racial polarization was greater in the states covered by Section 5 than in the rest of the country. In the covered states there was a 71 percent difference between presidential preferences for whites and Blacks: only 26 percent of whites supported Barack Obama, compared with 97 percent of Blacks, and 67 percent of Hispanics. In noncovered states a much greater 48 percent of whites voted for Obama, compared with 96 percent of Blacks (a smaller gap of 48 percent, compared with 71 percent in covered states).⁸⁹

40. Georgia’s voting patterns resembled trends in the rest of the South in 2008. Only 23 percent of Georgia whites voted for Obama (the same percentage as voted for Democratic nominee John Kerry in 2004). Thus, it was the

⁸⁷ Stephen Ansolabehere, Nathaniel Persily, and Charles Stewart III, “Race, Region, and Vote Choice in the 2008 Presidential Election: Implications for the Future of the Voting Rights Act,” 123 *Harv. L. Rev.* 1385, 1401, 1409-10 (2010), emphasis added.

⁸⁸ *Id.*, 1412.

⁸⁹ *Id.*, 1415 (Table 5).

overwhelming support of Black voters – turning out in greater numbers – that boosted Obama’s total vote in Georgia (increasing the vote received by the Democratic candidate from 41 percent in 2004 to 47 percent in 2008).⁹⁰ The results when President Obama sought re-election in 2012 displayed the same pattern, as the three political scientists noted in a follow-up study: “Voting in the covered jurisdictions has become even more polarized over the last four years, as the gap between whites and racial minorities has continued to grow. This is due both to a decline among whites and an increase among minorities in supporting President Obama’s reelection.”⁹¹

41. Party identification estimates in Georgia from a 2014 survey designed by political scientists show only 25 percent of whites still reporting themselves as Democrats while 59 percent said they were Republicans and 17 percent were Independents. Among Black Georgians reporting their party identification in the survey, 73 percent saw themselves as Democrats, only 12 percent as Republicans and 15 percent as Independents.⁹² According to exit poll data, the 2014

⁹⁰ *Id.*, 1422 (Table 9). The Republican candidate, John McCain, still carried Georgia in the 2008 election.

⁹¹ Stephen Ansolabehere, Nathaniel Persily, and Charles Stewart III, “Regional Differences in Racial Polarization in the 2012 Presidential Election: Implications for the Constitutionality of Section 5 of the Voting Rights Act,” 126 *Harv. L. Rev. Forum*, 205, 206 (April 2013).

⁹² Declaration of Vincent L. Hutchings, *Georgia State Conference NAACP v. Gwinnett County Board of Registrations and Elections*, C. A. No.1:16-cv-02852 (N.D. Ga.), August 6, 2017, Table 1. (p. 9), relying on Georgia statewide survey

gubernatorial election in Georgia displayed the same general pattern of racial polarization as in past years. Only 25 percent of whites voted for the Democratic gubernatorial candidate in the 2014 poll data, as compared with 89 percent of Blacks. The victorious Republican candidate, Nathan Deal, won the support of 73 percent of white voters but only 10 percent of Black Georgians.⁹³

42. Republicans controlled the governor's office after 2002, both houses of the General Assembly by 2004, and – after the 2006 election of Republican Karen Handel – the office of Secretary of State. According to political scientists Hood and McKee, the likeliest threat to Republican domination of Georgia elections – should it materialize – came from “changing demography and minority voter mobilization in favor of Democrats.”⁹⁴ Between 1990 and 2016, Georgia's Black population – by now including modest percentages of African immigrants – increased from 27 to 31 percent, and Hispanics from two to nine percent. As a result, the non-Hispanic white population declined from 71 to 60 percent.⁹⁵ Because in the 21st century minority voters routinely support Democratic candidates, Republicans stood to benefit from making registration and voting by minority citizens more difficult. “Control of election administration,” note Hood

data from the Pew Research Center.

⁹³ *Id.*, 11, relying on CNN exit poll data.

⁹⁴ Hood and McKee, “Why Georgia, Why?” 1832.

⁹⁵ *Id.*, 1833.

and McKee, “has increasingly been recognized and deployed as a means to seek electoral advantage,” not just in Georgia but in the United States generally.”⁹⁶

Immigration and Citizenship Issues

43. A key aspect of demographic change that could add to the threat against Republican strength at the polls in recent decades has been immigration. In the 1990s Georgia experienced – in proportion to its prior population – the second highest increase in minority population of any state in the country. Much of this growth was due to migration from Latin America, Asia, and Africa⁹⁷ – but also to migration of Hispanics, Asians, and Africans from other states in this country. These immigrants were attracted by booming economic conditions in agriculture, construction, poultry processing, and the carpet industry.⁹⁸ A lawyer for the

⁹⁶ *Id.* The specific election administration issues Hood and McKee cite (pp. 1833-34) are: the first Georgia law establishing a very strict photo identification requirement for in-person voting, Georgia’s “use it or lose it” law (that may have been noncompliant with the National Voter Registration Act), the requirement that the information on voter registration applications match *exactly* the information for the applicant on the driver’s license database or that of the Social Security Administration, and the vulnerability of the state’s voter registration database to hacking.

⁹⁷ We learn from Stephanie A. Bohon, Megan Conley, and Michelle Brown, “Unequal Protection Under the Law: Racial Disparities for Hispanics in the Case of *Smith v. Georgia*,” *American Behavioral Scientist*, (2014), 12, that according to ACS data Georgia had over 10,000 black non-citizens, mostly from Africa.

⁹⁸ Micki Neal and Stephanie A. Bohon, “The Dixie Diaspora: Attitudes Toward Immigrants in Georgia,” *Sociological Spectrum*, 23 (2003), 181-212 (data cited on p. 182), noting that 25 Georgia counties saw increases in immigrants of 50 percent or greater. *Id.*, 191.

Immigration and Naturalization Service declared: “Immigrants are the key to the Georgia economy. Hispanics keep the poultry industry running in Gainesville and the carpet industry productive in Dalton.”⁹⁹ By 2005, moreover, four counties in the Atlanta metropolitan area – Fulton, DeKalb, Cobb, and Gwinnett, where construction, manufacturing, and retail provided plenty of jobs – were home to more than half of the state’s 650,000 Hispanics.¹⁰⁰

44. Increased immigration unsurprisingly brought a growing percentage of non-citizens. In 1990 only 2.7 percent of the state’s population was foreign-born. By 2000 those born in other countries made up 7.1 percent of the population; by 2017 the one-year American Community Survey (ACS) estimated that 10.2 percent of Georgia’s population was foreign-born.¹⁰¹ Some, however, had lived in other states before moving to Georgia in search of opportunity. Many of the foreign-

⁹⁹ *Id.*, 190. Corporate executives in Dalton’s carpet factories described Mexican immigrants as the “lifeblood” of the industry.

¹⁰⁰ Debra Sabia, “The Anti-Immigrant Fervor in Georgia: Return of the Nativist or Just Politics as Usual?” *Politics & Policy*, 38 (No. 1, 2010), 53-80 (data reported on p. 56). See also Robert A. Yarbrough, “Becoming ‘Hispanic’ in the ‘New South’: Central American Immigrants’ Racialization Experiences in Atlanta, GA, USA.” *GeoJournal* 75 (No. 3, 2010), 249-60. After mapping the location of Central American immigrants in the Atlanta region, using a measure known as a Location Quotient, Yarbrough notes (p. 251) that their greatest concentration was in “the I-85/Buford Highway corridor stretching through northern DeKalb and western Gwinnett counties,” an area “known for its immigrant residential settlement as well as immigrant-driven business activities.”

¹⁰¹ Migration Policy Institute (MPI), “State Demographics Data: Georgia.” MPI reports rely on data from the decennial U.S. Census and estimates from the American Community Survey which are reported here.

born became U.S. citizens – and could then legally register and vote. The proportion of the foreign-born in Georgia who were naturalized citizens was 29.3 percent in 2000, and 43.6 percent according to the 2017 ACS estimate.¹⁰²

45. Georgia continued to have increases in its Hispanic community. Between 2000 and 2015, the state had the highest growth rate in its Hispanic population in the entire country – 118.8 percent.¹⁰³ Hispanics constituted the largest contingent of the state’s foreign-born immigrants, according to the 2017 estimates: 48.1 percent. Breaking down the total number of Hispanics by nation of origin, Mexicans made up 23.1 percent of the state’s foreign-born, other Central American countries 8.9 percent, the Caribbean 9.4 percent, and South American countries another 6.7 percent.¹⁰⁴ Predictably, the changing demographics in the Atlanta metropolitan area, the smaller urban centers of Dalton, Gainesville, and Athens, and the agricultural counties of southeastern Georgia had a significant impact on the state’s politics – still under Republican control.

46. Republican legislators’ concern about the effects of rapid immigration was already on display by 2006 when the state adopted SB 529, the Security and

¹⁰² *Id.*

¹⁰³ Atlanta Regional Commission, “Regional Snapshot: Metro Atlanta’s Hispanic and Latino Community” (February 2018), citing the Pew Research Center tabulations of the 2000 census and the 2015 ACS.

¹⁰⁴ MPI, “State Demographics Data: Georgia.” The percentage who are non-citizens had decreased from 70.7 percent in 2000 to 56.4 percent in 2017.

Immigration Compliance Act. Two key provisions of the act required verification of citizenship for either applications for employment or applications for public benefits. Section 2 of the bill required employers hiring a new worker to participate in a federal work authorization program – E-Verify – to determine, among other things, whether the applicant was a U.S. citizen.¹⁰⁵ Section 9 required citizenship verification for any person applying for public benefits (local, state, or federal benefits), utilizing a program operated by the Department of Homeland Security called Systematic Alien Verification of Entitlement (SAVE).¹⁰⁶

47. Two other provisions of SB 529 created a process for local and state law enforcement to assist in enforcing federal immigration laws.¹⁰⁷ Section 4 directed the state’s Commissioner of the Department of Labor to negotiate a Memorandum of Understanding (MOA) with the U.S. Department of Justice or the Department of Homeland Security “concerning the enforcement of federal immigration and

¹⁰⁵ S.B. 529, pp. 2-3, Section 2, amending Code Section 13-10-91 (and applying to some but not all categories of employers). Ryan Mahoney, “Perdue Signs Illegal Immigration Bill,” *Atlanta Business Chronicle*, April 17, 2006, characterized this provision as “targeting illegal immigrants and their employers.”

¹⁰⁶ S.B. 529, pp. 11-13, Section 9, Code Section 50-36-1 to Title 50 of the Georgia Code. The policies at issue in these provisions were designed to identify – and remove – undocumented immigrants who were not U.S. citizens. Identifying undocumented immigrants was a legitimate goal, but the laws were drafted in such a way that – at least as implemented – they swept more broadly than necessary, risking a discriminatory effect.

¹⁰⁷ S.B. 529, pp. 5-6, Section 4 (relating to “peace officers”) and Section 5 (relating to penal institutions).

custom laws, detention and removals, and investigations” in Georgia.¹⁰⁸ Federal funding would be required under such an MOA to provide for training Georgia law enforcement officers to enforce federal immigration law, “while performing within the scope of his or her authorized duties.”¹⁰⁹ Section 5 of the act specified that whenever a person charged with a felony (as well as “with driving under the influence”) is confined to jail in a municipality or county “a reasonable effort shall be made to determine the nationality of the person.” If the person proved to be a foreign national, law enforcement was to seek citizenship verification through the Department of Homeland Security. The Georgia Sheriffs Association was to issue guidelines and procedures for carrying out this responsibility.¹¹⁰

48. When signing the bill Republican Governor Sonny Perdue justified SB 529 in inflammatory language reflecting his party’s current preoccupation with the problem of illegal immigrants gaining access to welfare benefits – as well as committing voter fraud – that rose to the level of demagoguery. “It is simply unacceptable for people to sneak into this country illegally on Thursday, obtain a government-issued ID on Friday, head for the welfare office on Monday, and go to vote on Tuesday.”¹¹¹ The state’s voting process at the time – including a restrictive

¹⁰⁸ S.B. 529, p. 5, Section 4 adding a new code section, 35-2-14.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ Quoted in Sabia, “Anti-Immigrant Fervor in Georgia,” 62. Although inflammatory, the Governor’s remarks did not rise to the level of a contemporary

photo identification requirement for in-person voting – made the Governor’s claim of undocumented immigrants voting extremely unlikely, unless local election officials were routinely failing to enforce the law.

49. Six of 18 members of the Latino Commission for a New Georgia – established by Perdue in 2003 to “play a consulting role in policy development” – resigned in protest over his decision to sign SB 529 into law. As one of those resigning in protest – a restaurateur who described himself as “a dedicated Republican and citizen of Georgia” – put it: “By continuing to serve, I feel I would be giving you credibility for having compassion and understanding of the plight of the Latino people which you obviously do not have.”¹¹² According to an Associated Press story, “Hispanic groups warned that Georgia’s immigration crackdown would turn conservative Hispanic voters away from the Republican Party.”¹¹³

speech given by activist D. A. King to a Republican audience, warning that illegal immigrants were “not here to mow your lawn. They’re here to blow up your buildings and kill your children, you, and me.”

¹¹² Alex Salgueiro, president of the Savannah Restaurants Group, quoted in Walter C. Jones, “6 Latinos Leave Perdue Panel; One-Third of Economic Group Resigns; Many Cite Immigration Bill,” *Florida Times Union*, April 21, 2006. Other members submitting their resignations included Sara Gonzalez, president of the Georgia Hispanic Chamber of Commerce, and Venus Gines, former Cobb County chair of the Republican National Hispanic Association.

¹¹³ Vicky Eckenrode, Associated Press, “Athens March, Vigil One of Many Scheduled Today,” *Athens Banner-Herald*, May 1, 2006.

50. Governor Perdue’s assertion that immigrants cost taxpayers by depending on public assistance programs, was factually incorrect, according to an analysis of the issue by the Georgia Budget and Policy Institute (GBPI) a few months earlier. The author, Sara Beth Coffey, addressed the “belief among some Georgians that undocumented immigrants are abusing the system and receiving services from which they are restricted by federal law.”¹¹⁴ She pointed out that legislation currently under consideration – likely SB 529 – “seeks to restrict undocumented immigrants from government services,” but the majority of those services are already restricted by federal law.” She then listed the welfare benefits “for which undocumented immigrants do not qualify” under federal law: food stamps; Social Security; Supplemental Security Income; Temporary Assistance for Needy Families (TANF); Full-Scope Medicaid; Medicare “Premium Free” (Part A); Peach Care (Georgia’s children’s health insurance); and HUD Public Housing and Section 8 programs. The only benefits for which undocumented immigrants *did* qualify were state-funded programs *not* affected by SB 529: “K-12 public education and emergency medical care.”¹¹⁵ Coffey also calculated that on average

¹¹⁴ Sarah Beth Coffey, “Undocumented Immigrants in Georgia: Tax Contribution and Fiscal Concerns” (Georgia Budget and Policy Institute, January 2006), p. 1.

¹¹⁵ Coffey, “Undocumented Immigrants in Georgia,” p. 3. See also Neal and Bohon, “Dixie Diaspora,” 191-92, citing a 1997 report from the Georgia Department of Human Resources showing that immigrants made up only 1.2 percent of all families receiving TANF benefits and only 1.3 percent of families

an “undocumented family in Georgia contributes between \$2,340 and \$2,470 in state and local sales, income, and property taxes combined” – or between \$1,800 and \$1,860 if the family does not pay income taxes.”¹¹⁶ The Governor’s claims about the costs to taxpayers of benefits enjoyed by illegal immigrants could only have been true if persons charged with enforcing state and federal law in Georgia failed to enforce those legal restrictions. In short, setting up barriers to the use of public benefits by illegal immigrants was a solution in search of a problem.

51. Businessmen – normally a key focus of the state’s Republican leadership – struggled to understand the ways in which SB 529 would affect them. According to a news account from Gwinnett County, the local Chamber of Commerce held a session in October attended by around 50 business leaders “to try to learn how to comply with the new laws, which go into effect next year.”¹¹⁷ A local accountant explained to his audience that “companies that contract with the state must confirm employees are eligible through a Department of Homeland Security database” – E-Verify – “that is wrong about 20 to 40 percent of the time.”¹¹⁸ The accountant added that there were “a lot of reasons why the mismatches are happening,” such as “the Hispanic tradition of keeping the last

receiving food stamps.

¹¹⁶ *Id.*, p. 2.

¹¹⁷ “Law Boosts Businesses’ Burden,” *Gwinnett Daily Post*, October 20, 2006.

¹¹⁸ *Id.*

name of both the father and the mother after marriage.”¹¹⁹ A lawyer at the Chamber of Commerce meeting saw little practical need for such restrictions as in SB 529, expressing his view that “racism never left Georgia. It just laid dormant for a while until they found someone else to pick on.”¹²⁰

52. In September 2006, a few months after SB 529 was signed into law – even before many of its provisions were implemented – local law enforcement in Georgia cooperated with U.S. Immigration and Customs Enforcement (ICE) in raids on undocumented immigrants. In Forsyth County 20 sheriff’s deputies worked with ICE agents in a pre-dawn raid on a local construction firm and rounded up 30 undocumented workers who worked there. The sheriff’s office had been investigating allegations of fake resident alien cards (green cards) and Social Security cards.¹²¹ In the little southeast Georgia town of Stillmore, in Emmanuel County, federal agents raided the local chicken-processing plant and the surrounding area. “They cuffed and arrested more than 120 illegal immigrants, mostly men, and took them away.”¹²² When the raid went down, another reporter

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ “30 Men Snared in Raid on Company,” *Forsyth County News*, September 17, 2006, p. 1A. A follow-up story reported that all of them men “have immigration holds and are likely to be deported.” See “Workplace Raid Signals Changes in Strategies,” *Forsyth County News*, September 21, 2006, p. 1A.

¹²² *Id.* Another news account reported that many Hispanics who were not arrested fled and one family “hid for two nights in a tree.” The reporter estimated that “perhaps as many as 300 others disappeared.” “Crackdown on Immigrants

noted, the local sheriff “began to get calls from residents wondering why armed men with bulletproof vests were running down the sidewalk; why Mexican immigrants were hiding behind homes and in the woods.”¹²³ By October, 2,000 people marched near the state capitol to protest SB 529, according to yet another reporter. A group of Latino men carried a sign in English that made its point despite the syntax and spelling: “I never live from welfare because I hard worker. I just build houses for yu.”¹²⁴

53. In 2011 Georgia returned to the concerns addressed in 2006 when the legislature adopted HB 87.¹²⁵ This bill – which was among the most controversial pieces of legislation in the 2011 session – was essentially an effort to provide more effective enforcement of the provisions in the 2006 law.¹²⁶ HB 87 spelled out requirements for anyone contracting with the state – and any sub-contractors – to use E-Verify.¹²⁷ It created a new crime of “aggravated identity fraud” whenever a

Empties a Town,” *Christian Science Monitor*, October 3, 2006, p. 1.

¹²³ “Immigration Issue Ripples Both Ways,” *Atlanta Journal and Constitution (AJC)*, September 25, 2006, p. B1.

¹²⁴ “Latinos Call for Legalization,” *AJC*, October 8, 2006, p. D3.

¹²⁵ HB 87 was enacted into law as the Illegal Immigration Reform and Enforcement Act, 2011 Ga. Laws 795.

¹²⁶ Note, “State Government HB 87,” 28 Ga. St. U. L. Rev. 51, 57 (Fall 2011). This Note provides a detailed legislative history of HB 87 accompanied by the authors’ analysis of the bill. A legislative study committee set up in 2010 concluded, after multiple hearings, that SB 529 did not have any enforcement mechanisms. HB 87 was designed to establish effective ways of putting teeth into enforcement. *Id.*, 86-87.

¹²⁷ *Id.*, 77. All employers were to submit compliance reports annually.

person used fictitious or counterfeit information for the purpose of obtaining employment, and specified the penalties for the offense.¹²⁸ The bill also specified penalties for knowingly transporting or harboring illegal immigrants or inducing them to enter the state.¹²⁹ It authorized all law enforcement officers to use the resources of their office to work with federal immigration authorities, and to arrest and transport illegal immigrants.¹³⁰ HB 87 added penalties for agency heads who violated the requirements for using E-Verify or SAVE or other requirements of the bill.¹³¹ It set up a new Immigration Enforcement Review Board, established the procedures under which it would operate, and gave it authority to investigate complaints.¹³²

54. The crackdown against undocumented immigrants threatened to cause problems with traditional Republican constituencies in business and agriculture – which underscores the importance of lawmakers’ animosity against undocumented immigrants – most of whom were Hispanic. According to a report in the state’s leading newspaper, Republican Governor Nathan Deal and Republican legislators “came under intense pressure in recent weeks from business groups that lobbied

¹²⁸ *Id.*, 77-78.

¹²⁹ *Id.*, 78.

¹³⁰ *Id.*, 79.

¹³¹ *Id.*, 80-81.

¹³² *Id.*, 81-82.

against the proposed law.”¹³³ The requirement to use the federal E-Verify database was a “particular concern to Georgia businesses,” in part because they faced financial penalties “for not complying with the E-Verify requirement.”¹³⁴

According to another report, HB 87 “has drawn stiff opposition from the state’s agricultural, landscaping, restaurant and tourism industries, who “fear the law will damage the state’s economy by scaring away migrant workers” and prompting cancellations of scheduled conferences.¹³⁵ “With the law passed and ready for implementation, many rural farmers – especially in Central and South Georgia – are taking notice of the exodus of migrant workers and immigrants which has left some farmers without workers to pick crops.”¹³⁶ Many of these farmers who are “losing their crops in these rural counties,” the reporter added, “had voted Republican for years.”¹³⁷

¹³³ Jeremy Redmon, “Georgia Lawmakers Pass Illegal Immigration Crackdown,” *Atlanta Journal and Constitution*, April 15, 2011.

¹³⁴ *Id.* “We’re coming out of [a] recession, and businesses are doing all they can do right now to stay afloat,” according to Jann Moore of the Gwinnett County Chamber of Commerce. *Id.*

¹³⁵ Jeremy Redmon, “Governor Signs Arizona-style Immigration Bill into Law,” *Atlanta Journal and Constitution*, May 13, 2011.

¹³⁶ “Rural Republicans in Georgia Can’t Have It Both Ways,” *Macon Examiner*, June 21, 2011.

¹³⁷ *Id.* See also Megan McArdle, “Georgia’s Harsh Immigration Law Costs Millions in Unharvested Crops,” *The Atlantic*, June 21, 2011.

55. The law’s constitutionality was challenged by private plaintiffs seeking a preliminary injunction shortly after it was enacted into law.¹³⁸ Their primary legal argument – at least the one that succeeded before the trial court – was that Sections 7 and 8 of the act pre-empted federal immigration law.¹³⁹ Summarizing Section 7, the court said it “prohibits ‘transporting or moving an illegal alien’ [as well as] ‘concealing or harboring an illegal alien’” and “‘inducing an illegal alien to enter’ into [Georgia] while committing another criminal offense.”¹⁴⁰ Section 8, the court added, “authorizes Georgia law enforcement officers to investigate the immigration status of criminal suspects where the officer has probable cause to believe that the suspect committed another criminal offense.”¹⁴¹ If the officer concludes that the suspect is an illegal immigrant, moreover, “he may detain the suspect, transport him to a state of federal detention facility,” or notify the Department of Homeland Security.¹⁴² The court granted the plaintiffs’ motion for a preliminary injunction as to these two sections of HB 87, because the plaintiffs “demonstrated likelihood of success on the merits of their claim that federal law preempted” the enforcement actions required by each.¹⁴³ The court added that the

¹³⁸ *Georgia Latino Alliance for Human Rights v. Deal*, 793 F. Supp. 2d 1317 (N.D. Ga. 2011).

¹³⁹ *Id.* at 1340.

¹⁴⁰ *Id.* at 1322.

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.* at 1317, 1340.

“apparent legislative intent is to create such a climate of hostility, fear, mistrust and insecurity that all illegal aliens will leave Georgia.”¹⁴⁴

56. When Governor Nathan Deal signed HB 87 into law, he told reporters “this legislation I believe is a responsible step forward in the absence of federal action.”¹⁴⁵ The author of HB 87, Republican Representative Matt Ramsey, “said the bill addresses issues forced on the states because of the federal government’s decades-long failure to secure the nation’s borders.”¹⁴⁶ To this claim the judge hearing the case bristled: “The widespread belief that the federal government is doing nothing about illegal immigration is a myth,” and the state’s claim “has no basis in fact.”¹⁴⁷

57. Political participation by Hispanics increased after 2004 but remained significantly lower than registration and turnout rates among African Americans and non-Hispanic whites, according to a recent study.¹⁴⁸ In 2008, 48 percent of the

¹⁴⁴ *Georgia Latino Alliance for Human Rights v. Deal*, 793 F. Supp. 2d, at 1333.

¹⁴⁵ Quoted in “Deal Signs Immigration Bill,” *Augusta Chronicle*, May 24, 2011.

¹⁴⁶ “Georgia Governor to Sign Law Targeting Illegal Immigrants,” *CNN*, April 15, 2011.

¹⁴⁷ *Georgia Latino Alliance for Human Rights v. Deal*, 793 F. Supp. 2d, at 1335. On appeal the Eleventh Circuit upheld the preliminary injunction on Section 7 but not Section 8. Because the appeals court had affirmed the preliminary injunction against Section 7 of HB 87, however, the trial court permanently enjoined that section of the law. *Georgia Latino Alliance for Human Rights v. Governor of Georgia*, 691 F.3d 1250 (11th Cir. 2012).

¹⁴⁸ M.V. Hood III and Charles S. Bullock III, “Tracking Hispanic Political Emergence in Georgia: An Update,” *Social Science Quarterly*, 102 (January 2021), 259-268. The authors used official data from the Georgia Secretary of State’s

Hispanic citizen voting age population (CVAP) was registered to vote, compared with 87 percent for Black Georgians and 85 percent for whites. By 2016 Hispanic registration had increased to 57 percent of CVAP, compared with 92 percent for Blacks and 87 percent for whites. By the 2018 off-year elections, Hispanic registration dropped to 54 percent of CVAP, but Black registration represented 81 percent and white registration was at 81 percent.¹⁴⁹ Turnout as a percentage of registered voters revealed even greater disparities. In the historic 2008 election Hispanic turnout was only 53 percent, while Blacks turned out as 68 percent of registered voters – and white turnout was an even higher 70 percent. In the 2016 presidential election 54 percent of Hispanic registered voters turned out to vote, 56 percent of Blacks, and a far higher 68 percent of white registrants. In 2018 only 43 percent of Hispanic registrants voted, compared with 54 percent of Blacks and 62 percent of whites.¹⁵⁰

Implementation of the Help America Vote Act (HAVA)

58. Following the 2000 election controversy surrounding the disputed presidential election between Republican George W. Bush and Democrat Albert Gore, the Congress adopted the Help America Vote Act (HAVA) in 2002.

Georgia's compliance with the requirements of the HAVA reflected an uncertain

office.

¹⁴⁹ *Id.*, 262 (Table 2).

¹⁵⁰ *Id.*, 265 (Figure 3).

grasp of what HAVA requires. Decisions by the federal courts and by the Department of Justice in a Section 5 preclearance review were often necessary to obtain Georgia's compliance with the law. This was especially true of the state's flawed implementation of HAVA's requirement that states use electronic database matching to create a voter verification program.

59. Among other requirements all states must meet under HAVA, Georgia was obligated to create a digital statewide voter registration database and compare the information provided by registration applicants with information provided by those individuals to the state's driver license database – or for those without drivers' license or other state identification – to the database of the Social Security Agency (SSA).¹⁵¹ The purpose of this database matching was to identify the applicant as a resident of the state and county and to confirm that the person was a citizen of the United States. To be clear, HAVA did *not* require states to deny voter registration to persons whose information in the paired databases did not satisfy an exact match requirement. As the Department of Justice noted in objecting to Georgia's voter verification program in 2009: "HAVA does not speak to the question of whether a state should deem an applicant eligible or ineligible, whose information fails to match on some element contained in a state or federal

¹⁵¹ *Morales v. Handel*, No. 1:08-CV-3172, 2008 WL 9401054, at *5 (N.D. Ga. Oct. 27, 2008).

database.”¹⁵² Whether the applicant was qualified under state law for registration as a legal voter, in other words, was left to the judgment of the states – and was thus subject to the preclearance requirements of Section 5.¹⁵³

60. Georgia had not undertaken HAVA’s voter verification requirement for several years because it contended the state was exempt from this requirement on the theory that its voter registration law already obligated voter registration applicants to supply their full nine-digit Social Security number.¹⁵⁴ That defense had been rejected by a federal court decision in 2005, however.¹⁵⁵

61. Georgia began to comply with the voter verification provisions of HAVA in March 2007, when Secretary of State Karen Handel entered into an information-sharing agreement with the state’s Department of Driver Services (DDS).¹⁵⁶ Under this agreement DDS was to compare the information about each new applicant for voter registration with information about that individual in the

¹⁵² Loretta King, Acting Assistant Attorney General, to Attorney General Thurbert Baker, May 29, 2009. This objection letter accurately summarizes relevant aspects of HAVA. See Arthur L. Burris and Eric A. Fisher, *The Help America Vote Act and Election Administration: Overview and Selected Issues for the 2016 Election* (Congressional Research Service, October 18, 2016).

¹⁵³ King to Baker, May 29, 2009.

¹⁵⁴ *Id.* at *6, 9, n.9.

¹⁵⁵ *Schwier v. Cox*, 412 F. Supp. 2d 1266 (N.D. Ga., 2005), rejecting the state’s interpretation of 42 U.S.C. Sec. 15483(a)(5)(D).

¹⁵⁶ *Morales*, at 6. See “Memorandum of Understanding Between the Georgia Department of Driver Services and the Office of the Secretary of State” (March 27, 2007).

DDS database of persons with drivers' licenses – and to flag any individual whose information did not *exactly* match in this process as unverified.¹⁵⁷

62. In addition, the state's increasing concern about verifying citizenship status led to a new source of information from the federal government. According to the DDS: "As of January 1, 2008, Georgia state law requires DDS to verify all immigration documents presented by non-citizens via SAVE" – the acronym for "Systematic Alien Verification for Entitlements" – "prior to issuing a driver's license/permit/ID card."¹⁵⁸ SAVE is a program permitting a state agency supplying benefits or services to legal residents (who are not citizens of the United States) to ask U.S. Citizenship and Immigration Services (the federal agency administering SAVE) for information about an applicant's citizenship status. The inquiry does *not* utilize a database matching methodology: as USCIS puts it, SAVE is "not itself a database." The inquiring agency supplies "the applicant's biographic information (first name, last name and date of birth)," and one of three numeric identifiers supplied by USCIS or "an unexpired foreign passport number."¹⁵⁹ Most importantly, SAVE supplies the citizenship status of persons applying for government benefits or services "at the time an application is initially

¹⁵⁷ *Id.* The database matching was to examine the following fields: "driver's license number, last name, first name, date of birth, last four digits of Social Security number, and citizenship status.

¹⁵⁸ Citing O.C.G.A. 40-5-21.1. (<https://dds.georgia.gov/save>).

¹⁵⁹ <https://www.uscis.gov/save/verification-process>.

filed.”¹⁶⁰ That is, when DDS checks SAVE for information about citizenship status of a voter registration applicant who is a naturalized citizen, the information may well date from a time *prior to* naturalization and thus be inaccurate at the time of applying for voter registration.

63. DDS had, in turn, signed a memorandum of understanding with the Social Security Administration (SSA) to verify – through a database SSA designated HAVV – an applicant’s status where the applicant lacked a driver’s license.¹⁶¹ This made Georgia one of the first states to require evidence of a voter registration applicant’s citizenship status through database matching.¹⁶²

64. As it turned out, using HAVV was problematic. Database matching is a complex process requiring a reliable methodology – and requiring an exact match between variables in separate databases is guaranteed to produce errors. This problem is explained in an inspector general’s report from the Social Security Administration, designed “to assess the accuracy of the verification responses

¹⁶⁰ Immigration Policy Center, “Using the Systematic Alien Verification for Entitlements (SAVE) Program for Voter Eligibility Verification” (August 2012), p. 1 (emphases in original document).

¹⁶¹ “User Agreement for Voter Registration Information Verification System Services between The Georgia Department of Driver Services (MVA) and the Social Security Administration (SSA),” (signed February 14, 2007, by the Commissioner of DDS and April 23, 2007, by the Regional Commissioner of SSA).

¹⁶² Ana Henderson, “Citizenship, Voting, and Asian American Political Engagement,” 3 *UC Irvine L. Rev.* 1077, 1084 (2013).

provided by the Help America Vote Verification (HAVV).”¹⁶³ The Inspector General reported that, as of December 2008, SSA had signed user agreements with state drivers’ license offices from 46 states and territories “to use the HAVV system when a voter registrant who does not have a driver’s license number provides the last four digits of their SSN for verification purposes.”¹⁶⁴ SSA had been able to provide a match for *only 69 percent* of the applicants nationwide – some of those matches also applied to another applicant as well – and a “*no-match*” response for 31 percent. “This occurs because the last four digits of the SSN is [sic] not a unique identifier,” the Inspector General explained.¹⁶⁵ As a result of its investigation, the report concluded that HAVV had “a significantly higher no-match response rate when compared to other verification programs used by States and employers,” which ranged from 6 to 15 percent.¹⁶⁶

65. The Inspector General identified the problem as HAVV’s use of an “exact match” requirement, searching “for exact matches on the first and last name, which is problematic because it does not consider possible human error (that is, data entry errors, transpositions [of characters], and nicknames.”¹⁶⁷ He then

¹⁶³ “Quick Response Evaluation: Accuracy of the Help America Vote Verification Program Responses,” A-03-09-29115, June 2009, p. 1.

¹⁶⁴ *Id.*, p. 2.

¹⁶⁵ *Id.*, p. 2 (emphasis added).

¹⁶⁶ *Id.*, p. 4.

¹⁶⁷ *Id.*, p. 6. Table 3 on p. 7 of the report provided illustrations of the sort of human errors that result in a no-match in HAVV.

added a damning lament: “The HAVV program provided the States with responses that may have prevented eligible individuals from registering to vote and allowed ineligible individuals to vote.”¹⁶⁸ This inspector general’s report clearly should have raised a red flag for officials charged with administering Georgia’s voter verification process about the state’s use of an exact match methodology like that used by HAVV.¹⁶⁹

66. On May 29, 2009, the Department of Justice objected to Georgia’s voter verification program.¹⁷⁰ “Our analysis shows that the state’s process does not produce accurate and reliable information and that thousands of citizens who are in fact eligible to vote under Georgia law have been flagged” as ineligible.¹⁷¹ The objection letter cited “deposition testimony by state employees” in the *Morales* litigation indicating “that an error as simple as transposition of one digit of a driver license number can lead to an erroneous notation of a non-match across all

¹⁶⁸ *Id.*, p. 11.

¹⁶⁹ The same sort of human error that affected the no-match results in HAVV searches are inevitable in *any* exact match data linkage – such as efforts to match individual records in a voter registration database and a driver’s license database (matches affecting far more Georgians than the linkage between DDS and HAVV). To be reliable, Georgia would have to devise ways of checking and cleaning up its database matching results to address these routine human errors or face the prospect of disfranchising numerous individuals who were, in fact, qualified to vote.

¹⁷⁰ Loretta King, Acting Assistant Attorney General, to Attorney General Thurbert Baker, May 29, 2009, p. 1.

¹⁷¹ *Id.*, p. 3.

compared fields.”¹⁷² The problem was compounded when inquiring into an applicant’s citizenship status. Georgia’s use of data from HAVV to ascertain whether individual applicants were citizens increased “the potential for unreliable results.” Of the 7,007 individuals who have been flagged as non-citizens due to the use of HAVV data, “more than half were in fact citizens.”¹⁷³

67. The Department noted further that “[t]he impact of these errors falls disproportionately on minority voters,” including Hispanic and Asian as well as Black applicants.¹⁷⁴ The state generated two reports for use by local registrars, R1 (examining variables other than citizenship) and R2, “which seeks to verify citizenship status,” explained the Department.¹⁷⁵ The R1 report for those applying between May 2008 and March 2009 indicated that “sixty percent more African American” than white applicants were flagged as non-matches, although Blacks and whites “represent approximately equal shares” of new registrants. On the R2 report, Hispanics and Asians were “more than twice as likely to appear on the list” of non-citizens “as are white applicants.”¹⁷⁶

¹⁷² *Id.*

¹⁷³ “Of those persons erroneously identified as non-citizens, 14.9 percent, more than one in seven, established eligibility with a birth certificate, showing that they were born in this country. Another 45.7 percent provided proof that they were naturalized citizens, suggesting that the driver’s license data base is not current for recently naturalized citizens.” *Id.*, p. 4.

¹⁷⁴ *Id.*, p. 4.

¹⁷⁵ *Id.*, p. 3.

¹⁷⁶ *Id.*, p. 4.

68. In 2010, after apparently taking steps to reform its procedures for implementing the state's exact match law, Georgia sought preclearance of its newly revised voter verification process from a three-judge court in the District of Columbia as well as through administrative review by the Department of Justice.¹⁷⁷ The submission followed shortly after Republican Governor Sonny Perdue appointed Brian Kemp as Secretary of State, when the prior Secretary, Karen Handel, resigned to run (unsuccessfully) for governor.¹⁷⁸

69. Although the new procedure submitted by the Secretary of State's office continued to employ an exact match requirement, the submission letter set forth a detailed explanation of the revised program, including its database matching with DDS and SSA. The revised voter verification system, according to the state, called for careful monitoring of the voter verification process on a daily basis, with

¹⁷⁷ *Georgia v. Holder*, 748 F. Supp. 2d 16 (D.D.C. 2010); Submission letter from Anne W. Lewis to T. Christian Herren, August 17, 2010. At the time I was employed as a social science analyst in the Voting Section of the Civil Rights Division. For the record, however, I was involved neither in the Section 5 litigation nor in the administrative review of this submission and have never examined the internal documents relating to the preclearance of this version of Georgia's voter verification process.

¹⁷⁸ According to a news account, Georgia Attorney General Thurbert Baker, an African American Democrat, "refused to file the lawsuit," which was filed instead by private attorney Anne Lewis, serving as a special attorney general for this purpose. Ewa Kochanska, "Georgia Files Lawsuit Against U.S. Justice Department," *Atlanta Examiner*, June 23, 2010. According to this account, new Secretary Brian Kemp "accused the Obama administration of playing politics" when objecting to the prior submission of the state's voter verification process, a charge with which Baker disagreed.

prompt notice to any applicant whom the system could not verify as a citizen and resident of Georgia under the exact match requirement.¹⁷⁹ According to the federal court, on August 18, 2010 the Department “informed the plaintiff [Georgia] that it did not intend to object to implementation of the revised Verification Process.”¹⁸⁰ “With preclearance in hand,” noted a staff member in the Secretary of State’s office a few years later, Georgia’s voter verification procedures “remained largely unchanged until 2016.”¹⁸¹

Georgia’s Flawed System of Voter Verification in Operation, 2010-2016

70. The central focus of the state’s voter verification process remained its use of an inflexible and unsystematic “exact match” procedure for database

¹⁷⁹ Lewis to Herren, August 17, 2010, Exhibit 1, pp. 1-5. According to another news account, a spokesman for the Secretary of State confirmed that the state was proposing changes in “the scope of the [verification] program.” Aaron Gould Sheinin, “Justice Department Approves Georgia Voter Verification System,” *Atlanta Journal-Constitution*, August 23, 2010. The Department’s decision not to object to the revised voter verification system was apparently based on its assessment that – by comparison to the system which had prompted an objection in 2009 – this new version did not appear retrogressive in effect.

¹⁸⁰ 748 F. Supp. 2d at 18. Secretary of State Brian Kemp characterized the preclearance decision to suggest that administrative review would have had a different result without court involvement. “After the litigation was filed, it took less than two months for the DOJ to consent to preclearance of the verification process and determine that Georgia’s verification process, including citizenship verification, does not have a discriminatory effect or purpose.” See his op-ed column, “Kemp: Victory for Georgia Voters,” *Athens Banner-Herald*, August 27, 2010.

¹⁸¹ Kevin Rayburn, “Georgia HAVA Verification,” Power Point presentation (undated, but based on internal evidence prepared in 2017), p. 7. At the time, Rayburn was assistant general counsel to the Secretary of State.

matching. Evaluating Georgia’s implementation of its exact match requirement after the 2010 preclearance requires an understanding of the methodological problems confronting any database matching.¹⁸² Most experts on database matching use several different algorithms to provide a more accurate result, rather than a simple (and inflexible) “exact match” of each pair of variables such as Georgia’s voter verification system employed.¹⁸³

71. A reliable example of how database matching should be used – and how it can be employed properly in a system of voter verification – is provided by expert witness reports in a voting rights case filed against the state in 2016. Both

¹⁸² A careful study examining the degree of election fraud in Georgia by political scientists M.V. Hood and William Gillespie describes how database matching *should* work – using official data provided by the Secretary of State’s Office. M. V. Hood III and William Gillespie, “They Just Do Not Vote Like They Used to: A Methodology to Empirically Assess Election Fraud,” *Social Science Quarterly*, 93 (March 2012), 79-94. They explain that to produce valid data, researchers “cannot simply stop with matching cases” – the first step (and in some instances the last step) in Georgia’s exact match methodology. “The next step must involve manually examining those cases where matches [or non-matches] between databases are produced” – to examine whether the initial finding is in error. *Id.*, 80. “The more characteristics of a subject one can utilize (i.e., county of residence, race/ethnicity, sex),” Hood and Gillespie point out, “the more confidence one can have in matching cases or in eliminating cases that are not, in reality, matches.”

¹⁸³ “Probability theory dictates that when dealing with a large number of cases, a certain number of false matches will be produced. For example, the *birthday paradox* or *problem* tells us that by random chance a certain number of unrelated registrants under examination will have the same date of birth and even name,” Hood and Gillespie, “They Just Do Not Vote Like They Used to,” 80, citing Michael P. McDonald and Justin Levitt, “Seeing Double Voting: An Extension of the Birthday Problem,” *Election Law Journal*, 7 (No. 2, 2008), 111-22.

Gary Bartlett – for two decades the executive director of the North Carolina State Board of Elections – and political scientist Michael McDonald, who has examined database matching in several states, including Georgia, describe in detail how Georgia’s voter verification process worked between 2010 and 2016, relying on documents received from the state through the discovery process in that case. Both experts criticize the state’s inadequate methods of applying the exact match requirement.¹⁸⁴ McDonald’s report also provides detailed quantitative evidence regarding the racial *effects* of Georgia’s implementation of the exact match law.¹⁸⁵ These careful studies demonstrate that the state’s assurances in its 2010 Section 5 submission of its revised voter verification program – that it would carefully monitor the exact match requirement on a daily basis to prevent errors in determining voter eligibility (and promptly notify applicants which documents they needed to provide– were not, in fact, effectively implemented.

¹⁸⁴ See Gary O. Bartlett, Declaration, September 14, 2016, *Georgia State Conf. NAACP v. Kemp*, No. 2:16-cv-00219 (N.D. Ga.), September 14, 2016; Dr. Michael P. McDonald Expert Report, September 14, 2016, *Georgia State Conf. NAACP v. Kemp*, No. 2:16-cv-00219 (N.D. Ga.). The plaintiffs also used a third expert, Christopher Brill, a senior data analyst with TargetSmart Communications, LLC, who prepared data files for use by Professor McDonald and provided a preliminary analysis of the data. See “Declaration of Christopher Brill,” *Georgia State Conf. NAACP v. Kemp*, September 14, 2016 (hereafter Brill 2016 Declaration).

¹⁸⁵ McDonald 2016 Report, and McDonald 2018 Declaration.

72. Statisticians and social scientists have known for decades that an exact match procedure such as Georgia’s is deeply flawed.¹⁸⁶ “The DDS exact matching procedure is a primitive method that is no longer an accepted practice in the field.”¹⁸⁷ Georgia’s exact match method does not even take simple steps such as standardizing how names are recorded, such as by removing all spaces, hyphens, or apostrophes, McDonald points out.¹⁸⁸ In his view, when Georgia revised its voter verification process in 2010 it ignored the criticism of the exact match procedure identified in the 2009 evaluation of the HAVV system by the Social Security Administration’s Inspector General.¹⁸⁹

73. McDonald examines all the records of applicants whom Georgia ruled ineligible to register and those whose applications were listed as pending – between July 7, 2013, and July 15, 2016. These were the files provided to the plaintiffs during the discovery process in that litigation.¹⁹⁰ Black Georgians were 28.2 percent of those registered during a roughly comparable period, but an astonishing 68.5 percent of the applicants in the pending or cancellation files

¹⁸⁶ McDonald 2016 Report, 8-9, citing Ivan Fellegi and Alan Sunter, “A Theory for Record Linkage,” *Journal of the American Statistical Association*, 64 (1969), 1183-1210, and Ahmed Elmagarmid, Panagiotis Ipeirotis, and Vassilios Verykios, “Duplicate Record Detection: A Survey,” *IEEE Transactions on Knowledge and Data Engineering*, 19 (2007), 1-16.

¹⁸⁷ McDonald 2016 Report, 9.

¹⁸⁸ *Id.*

¹⁸⁹ *Id.*, 11-14.

¹⁹⁰ *Id.*, 16-17.

(25,213 individuals). In contrast, only 4,409 non-Hispanic white applicants were in the cancelled or pending files (12.0 percent).¹⁹¹

74. Separating the applicants who failed the exact match requirement with DDS from those failing the SSA exact match, McDonald finds the same pattern of racial disparity in each. In the DDS match, Black Georgians, who made up only 28.2 percent of the registered voters (as noted above), were 53.3 percent of applicants in the cancelled and pending files. By contrast, non-Hispanic whites – 48.3 percent of the registered voters – were a far lower 18.3 percent of those canceled or pending.¹⁹² In the SSA match, Blacks made up 74.6 percent of applicants in the cancelled and pending files, and non-Hispanic whites were only 9.5 percent.¹⁹³

¹⁹¹ *Id.*, 17 (Table 2). Because Hispanics as well as Asian and Pacific Islanders constituted such small percentages of the registered voters statewide, it is useful to consider their proportion of those in pending or canceled status separately. Only 3.7 percent of the registered voters during this period were Hispanics, but they made up 6.9 percent of those in pending or canceled status (almost twice as high). Only 2.6 percent of the recently registered voters were Asian or Pacific Islanders, but they constituted 3.3 percent of those in the pending or canceled category.

¹⁹² *Id.*, 18 (Tables 3A and 3B). In the DDS match Hispanics, who were (as noted above) only 3.7 percent of recently registered voters, made up 13.2 percent of those in the canceled or pending files. Asian or Pacific Islanders were only 2.6 percent of the registered voters but 7.5 percent of those canceled or pending. The data for both groups, in short, revealed a significantly higher rate of non-matches compared with their percentage of the registered voters, resembling the patterns for African Americans.

¹⁹³ *Id.*, 18 (Tables 3A and 3B). In the SSA match Hispanics, who were (as noted above) only 3.7 percent of recently registered voters, made up 4.4 percent of those in pending or canceled status. Surprisingly, Asian and Pacific Islanders were 2.6

75. Summing up these findings, McDonald observes that “there are almost twice as many registered whites than blacks, but there are nearly six times more black applicants than whites in cancelled or pending status who failed the DDS or SSA exact match.” This leads him to the natural conclusion that Georgia’s practice of requiring an exact match of information in its voter registration files with DDS or SSA records “has a clear discriminatory effect.”¹⁹⁴

76. Beyond the racial effect of the exact match protocol, the battle faced by persons whose registration was cancelled or pending carries additional burdens. As McDonald notes, a “voter registration application is effectively a literacy and writing test.”¹⁹⁵ In addition to the need for sufficient education to understand the application form, trying to secure approval of their voter registration requires rejected applicants to “overcome a series of unduly burdensome and arbitrary hurdles,” as the veteran state election director Gary Bartlett put it in his expert report.¹⁹⁶

77. First, each failed applicant had a problem finding out just why his or her registration application was flagged as a non-match – and how to cure the defect.

percent of the registered voters but only 1.6 percent of the pending or canceled.

¹⁹⁴ *Id.*, 27. Election Director Chris Harvey later confirmed in a deposition that “70 or so percent of the applicants in pending status were African American.” Chris Harvey, Deposition, December 5, 2019, *Fair Fight Action v. Raffensperger*, p. 207.

¹⁹⁵ *Id.*, 24.

¹⁹⁶ Bartlett 2016 Declaration, 14.

The notification letter sent to rejected applicants set a “40 day clock” in motion – the time the individual has to provide corrective information to the local registrar – but does not say when the 40 days begin.¹⁹⁷ Nor do the letters “provide any instruction to the applicants about what they should do if the information they originally provided in their voter registration applications was correct” – if, for example the failure to match the DDS or SSA databases was due to a clerical error by the person doing data entry for the local registrar, rather than by the applicant, or perhaps because of data entry mistakes in the DDS database.¹⁹⁸ In addition, “the letters fail to inform applicants that they will not be able to vote in an upcoming election unless they submit a new application before the close of registration.”¹⁹⁹ The wording of the notification letters was sufficiently obscure that applicants “who have not attained a high school diploma or post-secondary degrees may also have difficulty understanding the letter or the urgency by which they need to act” to have their registration finally approved.²⁰⁰

78. The process, in short, was especially difficult for individuals with lower educational achievement. Just as political scientists have demonstrated the importance of disparities in socio-economic characteristics such as educational

¹⁹⁷ *Id.*, 15.

¹⁹⁸ *Id.*, 16.

¹⁹⁹ *Id.*, 17.

²⁰⁰ *Id.*, 18.

achievement (as measured by the census) in deterring political participation rates,²⁰¹ those disparities would also affect the ability to cope with the bureaucratic hurdles involved in correcting their registration applications. Among Black Georgian 25 years or older, 16.6 percent had less than a high school degree, whereas only 10.1 percent of non-Hispanic whites had failed to graduate from high school.²⁰² For Hispanics the disparity was even greater: 39.6 percent had less than a high school degree.²⁰³

79. Lower educational achievement was also related to economic status. The poverty rate for persons of all races 25 years or older was 29.4 percent for those with less than a high school degree, but 16.4 percent for those with a high school degree or higher (and only 4.6 percent for those with a bachelor's degree or higher).²⁰⁴ The proportion of Blacks below the poverty level was 24.4 percent, compared with only 11.1 percent among whites.²⁰⁵ Among Hispanics in Georgia

²⁰¹ See for example, the classic study by Steven J. Rosenstone and Raymond E. Wolfinger, *Who Votes?* (New Haven, Yale University Press, 1978) and, following up on their insights with more recent data, Jan E. Leighley and Jonathan Nagler, *Who Votes Now? Demographics, Issues, Inequality, and Turnout in the United States*, Princeton, Princeton University Press, 2013).

²⁰² *American Fact Finder*, S1501, p. 2, reporting American Community Survey, 2013-2017 5-year Estimates. I calculated each estimate of persons with less than a high school degree by subtracting the proportion with a high school degree or higher from 100 percent.

²⁰³ *Id.*

²⁰⁴ *Id.*

²⁰⁵ *Id.*, S1701, p. 1.

26.7 percent were below the poverty level.²⁰⁶ Employment, not surprisingly, affected the degree to which persons of all races fell below the poverty level; only 8.0 percent of employed persons were below the poverty level, as compared with 35.6 percent among those unemployed.²⁰⁷ The unemployment rate among African Americans in Georgia was 11.5 percent, but only 5.6 percent among non-Hispanic whites.²⁰⁸ In short, there were consistent racial disparities in those socio-economic characteristics usually affecting participation rates and the same disparities are likely to have a significant impact on the ability to remedy exact match failures in the state's flawed voter verification program.

80. Minority plaintiffs filed a lawsuit on September 14, 2016, challenging the administrative policy employed by the office of the Secretary of State to enforce Georgia's exact match law, relying in part on the Bartlett and McDonald expert reports whose findings are reported in preceding paragraphs.²⁰⁹ "HAVA does not mandate that voter registration applications be cancelled if the information contained on the application fails to match fields in the DDS or SSA databases," the plaintiffs noted in their complaint.²¹⁰ Nor, they argued, does the

²⁰⁶ *Id.*

²⁰⁷ *Id.*, p. 2.

²⁰⁸ *Id.*, S2301, p. 3. Among Hispanics the unemployment rate was 6.1 percent.

²⁰⁹ Complaint, *Georgia State Conf. NAACP v. Kemp*, No. 2:16-cv-00219 (N.D. Ga.), September 14, 2016.

²¹⁰ *Id.*, 12, citing 52 U.S.C. Section 21083, *Fla. State Conf. NAACP v. Browning*, 522 F.3d 1153, 1171-72 (11th Cir. 2008), *Washington Ass'n of Churches v. Reed*,

Georgia Election Code “specify that the ‘match’ be an exact match or require the cancellation of applications that do not match the DDS database,” and the matching protocol adopted as an administrative policy by the Secretary of State “is not codified in any statute or regulation.”²¹¹

81. Plaintiffs moved for a preliminary injunction shortly after filing the case. Before the preliminary injunction hearing, the defendant Secretary of State agreed to interim relief.²¹² Chris Harvey, the director of the Elections Division, then sent an Official Election Bulletin (OEB) to county election and registration officials listing certain changes the state had decided to make in the voter verification process.²¹³ “All voters that were moved into Cancelled status by the 40 day clock because they failed verification,” he added, “as of October 1, 2014 will be moved out of Cancelled status and placed into Pending status.” Such applicants would be run through the exact match system again and “new [notice]

492 F. Supp. 2d 1264, 1268-69 (W.D. Wash. 2006), *Morales v. Handel*, No. 1:08-CV-3172, 2008 WL 9401054, * 7-8 (N.D. Ga. Oct. 27, 2008).

²¹¹ *Id.*, 12, 14, citing Ga. Code Ann. Section 21-2-216(g)(7).

²¹² Kristen Clarke, Julie Houk, and John Powers, “Strict Construction of Voter Registration Laws; Georgia’s Experience in 2018,” Chapter 2 of *America Votes! Challenges to Modern Election Law and Voting Rights* (4th edition, American Bar Association, 2019), 21-41 (at p. 30).

²¹³ Chris Harvey, Official Election Bulletin (OEB), “Recent Actions for Previously Unverified Voter Registration Applicants,” September 27, 2016, p. 1). Harvey’s OEBs were regularly sent to all county election and registration officials in Georgia whenever regulations of the law changed, explaining precisely how the state’s exact match verification was to be implemented under the new rules.

letters will be generated if they fail verification.” The new notice letters would specify that – instead of the prior 40-day clock – the applicant had “one year to respond before their application is rejected.” During that time, moreover, “they will be able to cast a ballot as if they were an active voter if they are able to present appropriate ID,” and documentary proof of citizenship, if their citizenship was unverified through the exact match.²¹⁴ After several months the state agreed to settle the case.²¹⁵

82. Under this agreement, applications for voter registration with fields that failed to match the records in the DDS or SSA databases would be placed in pending status and – in contrast to the prior 40-day limit (or even the one year limit just adopted in September) – would “not be under any time limitation to cure the mismatch or otherwise confirm their identity,” whether the “failure to match” related to DDS, SSA, or citizenship.²¹⁶ The state also agreed to move from

²¹⁴ *Id.* The OEB also gave two pages of detailed instructions for registrars concerning how to administer these changes. A somewhat more cumbersome process was required as to the November general election of 2016 for persons flagged as potential non-citizens, who had to present proof of citizenship to a registrar or deputy registrar to vote a regular (rather than provisional) ballot. Official Election Bulletins, “More Details on Pending Voter Registration Processing,” November 4, 2016, pp. 2-4, and “Processing ‘Pending’ Voters on Election Day,” November 4, 2016, pp. 1-2.

²¹⁵ “Settlement Agreement,” February 8, 2017.

²¹⁶ *Id.*, 2. The state could still cancel applications when a notification letter as returned by the post office and applicants failed to confirm their address through the procedures spelled out in the prior exact match policy. *Id.*, 2-3.

cancelled to pending status all applications cancelled “on or after October 1, 2013,” but would then send those applications “back through the HAVA match process.”²¹⁷

Continuing Flaws in Georgia’s Voter Verification System

83. Shortly after the settlement agreement, however, the Georgia legislature adopted a bill (HB 268) that undermined equitable implementation of the settlement. The prior exact match protocol – previously only an unpublished administrative procedure devised by the Secretary of State – remained in place and was now codified in Georgia law.²¹⁸ The state was on notice from expert testimony in the 2016 lawsuit that the state’s exact match procedures operated with a racially discriminatory effect.²¹⁹ Despite that awareness, HB 268 left in place those very procedures requiring an exact match between the voter registration database and the DDS database – and in some instances with the SSA database.

²¹⁷ *Id.*, 3. The settlement agreement spelled out various changes in the process of notifying applicants and new training for county registrars to administer the altered procedures for voter verification. *Id.*, 3-6 and Exhibits 2-4 (the notification process), and Exhibit 5 (training). Chris Harvey informed county election officials and registrars of the procedures revised by the settlement agreement in an Official Election Bulletin, “Updated Pending Voters Action,” February 23, 2017, pp. 1-2.

²¹⁸ The Power Point presentation prepared for county election official training by Kevin Rayburn, “Georgia HAVA Verification,” [2017], p. 11, confirms that, in the view of the Secretary of State’s office, HB 268 “codifies the Georgia HAVA verification process.”

²¹⁹ See McDonald 2016 Declaration, *passim*.

84. In October 2018 minority plaintiffs filed suit against implementation of the new law, alleging that Georgia’s voter verification program continued to produce a high rate of erroneous non-matches with racially disparate results. They also filed an emergency motion for a preliminary injunction, asking the court to protect new voter registration applicants from the use of inaccurate *citizenship* information in the state’s database.²²⁰ They emphasized that the provisions of HB 268 regarding citizenship were *not* in effect at the time the parties settled the 2016 lawsuit.²²¹

85. HB 268 would require different treatment for applicants with a non-match on citizenship status, as compared with all other applicants with non-matches. As Chris Harvey, the director of the Election Division, explained to county election officials and registrars in an OEB, the passage of HB 268 meant that poll workers would find in the Express Poll equipment used at every precinct “two different indicators for voters in Pending status” – either a “V” or an “X.”²²² Persons with non-matching information *other than* their citizenship status (identified as “V”) would, as under the settlement agreement, be able to cast a

²²⁰ *Georgia Coalition for the People’s Agenda v. Kemp*, 347 F. Supp. 3d 1251 (N.D. Ga. 2018). The allegation about the numerous non-matches with a racially discriminatory effect was supported by the Declaration of Michael McDonald, October 19, 2018, filed with the preliminary injunction motion.

²²¹ 347 F. Supp. 3d, at 1259.

²²² Chris Harvey, Official Election Bulletin, “Handling Pending Verification Registrations at Voting Location,” October 23, 2018, p. 4.

regular ballot if they produced readily available photo identification to a poll worker.²²³

86. Persons flagged as potential non-citizens because of a failure to match exactly that individual's record in the DDS database, on the other hand, were treated differently at the polls. "If a Poll Worker pulls up [on the screen] a voter that is in X status, they will notice that the record is highlighted in purple."²²⁴ That meant that the person was flagged as a possible non-citizen and was to be issued a "Challenged Ballot." The poll worker then had to refer the person to a deputy registrar – if the voter had the required ID documentation and proof of citizenship and if a deputy registrar happened to be at the polling place. If no deputy registrar was available, the Poll Manager had the authority to contact the county registrar's office and provide a copy of the individual's proof of citizenship "if the technology [for copying and sending the document] is available." The county registrar would then update the voter's citizenship status in eNet, instruct the poll manager "to override the X status," and the voter would then become an active voter (and eligible to cast a regular ballot).²²⁵ That presented a series of bureaucratic hurdles

²²³ *Id.* A voter who did *not* have one of the required ID documents, however, would "be sent to the provisional ballot station.

²²⁴ *Id.*

²²⁵ *Id.*

that could take lots of time to resolve, even if the voter had proper identification, proof of citizenship, and could afford plenty of time away from work or child care.

87. According to the defendants, persons whose citizenship status was in question had several options for satisfying the requirements of HB 268. They could: 1) provide the registrar's office before the election with citizenship identification by personal delivery, mail or email; 2) produce proof of citizenship to a deputy registrar at a polling location (deputy registrars are authorized by the statute to approve the person's right to cast a regular ballot; 3) present proof of citizenship to the poll manager for the precinct, who must then transmit the proof to the county registrar's office, which can then approve the person to cast a regular ballot; 4) cast a provisional ballot if the poll manager is unable to contact the county registrar's office but confirms in writing that proof of citizenship was provided at the poll; or 5) cast a provisional ballot and submit proof of citizenship to the county registrar before the Friday after the election.²²⁶

88. Plaintiffs presented evidence at the preliminary injunction hearing that persuaded the court that the state's claims were not factually correct.²²⁷ A man named Yotam Oren became a naturalized citizen on December 18, 2017. He then completed a Georgia voter registration application and included a copy of his

²²⁶ *Georgia Coalition for the People's Agenda v. Kemp*, at 1261-62 (summarizing the state's representation of the options).

²²⁷ *Id.*, 1262.

naturalization certificate with the form. Mr. Oren “does not recall ever being informed that he needed to update his records with DDS” – he had been a licensed driver in Georgia since 2010 – “to reflect the change in his citizenship after becoming a naturalized citizen.”²²⁸ A notice letter from the state informed him that his application was in pending status because the DDS record showed that he was a non-citizen. He understood from the notice letter – and from the website of the Secretary of State – that he could simply bring proof of citizenship to the polling station at the time he voted and cast a regular ballot.²²⁹

89. When Mr. Oren went to his designated early voting location and presented his valid U.S. passport, however, poll officials were unable to approve changing his status from pending to active and told him he would have to wait or come back at another time to vote, so he left without voting.²³⁰ On his second trip to the polling station Mr. Oren’s status was changed from pending to active – “and he was finally able to cast his first vote as a United States citizen.”²³¹ He was able to vote only “after two trips to his polling location, looking up information on the Defendant’s website, placing his own call to the Fulton County voter registration

²²⁸ *Id.*

²²⁹ *Id.*

²³⁰ *Id.*

²³¹ *Id.* “At a minimum,” the court observed (p. 1263), of the five options the state contended were available to persons flagged as non-citizens by the Enet system, “Mr. Oren was not offered Options 3, 4, and 5.”

office, and providing election officials with a name and telephone number to call to help change his status,” summarized the court. The state “seems to overlook the hurdles Mr. Oren jumped” to cast his ballot.²³²

90. The court pointed out that the 2018 edition of the Georgia Poll Worker Manual did not list many of the options the state claimed were available to persons flagged as non-citizens. “This indicates a lack of training to poll workers about the citizenship verification process.”²³³ The Secretary of State’s website, the court added, is both contrary to the language of HB 268 and to actual experience.²³⁴ County registrars are not *required* by Georgia law to change naturalized citizens in the Enet system from pending to active status when presented with proof of naturalization at the time of the registration application. Nor does the training by the Secretary of State’s office address this issue. Evidence submitted by the plaintiffs included a declaration from Diana Cofield, a recently retired deputy registrar from Troup County, Georgia.²³⁵ “During my tenure as a deputy registrar,” she notes, “I became aware of several instances where applicants were put into pending status due to the failure to verify for citizenship” – as a result of the exact

²³² *Id.*, 1263.

²³³ *Id.*

²³⁴ *Id.*

²³⁵ *Georgia Coalition for the People’s Agenda v. Kemp*, Declaration of Diana Cofield, October 29, 2018. Ms. Cofield had worked for the Troup County Board of Elections and Registration for 14 years, ten of them as deputy registrar. She retired two months before her sworn testimony was filed.

match process with DDS – “even though they had submitted a copy of their naturalization certificate with their voter registration form.”²³⁶ Ms. Cofield testified that, to the best of her knowledge, the state’s training during her service as deputy registrar never “mandat[ed] that I review the original voter registrations and accompanying documents for pending voters to determine whether they had submitted proof of their identity or citizenship.”²³⁷ Nevertheless, “I chose to do this because I believed it was a good practice to follow.”²³⁸

91. The state’s exact match methodology on applicants flagged as potential non-citizens continued to have a racially discriminatory effect.²³⁹ McDonald reported that non-Hispanic Blacks were 30.7 percent of the applicants required to provide documentary proof of citizenship – roughly their proportion of all registered voters. Non-Hispanic whites, by comparison, who made up 54 percent of registered voters, were only 13.7 percent of applicants in pending status. Naturally the proportional effect of the exact match system on Hispanics and Asians was far greater. Hispanics were only 2.8 percent of all registered voters but

²³⁶ Cofield Declaration, p. 6. “I made this discovery as a result of my practice of reviewing the original applications and any accompanying documents submitted by the applicant with their registration form if the applicant was put into pending status.”

²³⁷ Cofield Declaration, pp. 6-7.

²³⁸ *Id.*, p. 7.

²³⁹ *Georgia Coalition for the People’s Agenda v. Kemp*, 347 F. Supp. 3d at 1263-64. McDonald’s analysis was not contested at the preliminary injunction hearing. *Id.*, at 1264.

17 percent of persons in pending status. Asian or Pacific Islanders made up only 2.1 percent of all registered voters in Georgia, but 27 percent of applicants required to document their United States citizenship.²⁴⁰

92. The court found that plaintiffs had shown “that the burden is severe for those individuals who have been flagged and placed in pending status due to citizenship.”²⁴¹ The court agreed with the state that it had an interest “in assuring that voters are United States citizens.”²⁴² It was far too close to the 2018 election, moreover, to “require the county registrars of the 159 counties in Georgia to review the voter registration applications for all individuals placed in pending status due to citizenship by checking to see if these individuals submitted proof of citizenship with their applications” – the practice followed by the conscientious Diana Cofield of Troup County.²⁴³

93. On the other hand, the state’s interest did *not* require “placing needless hurdles in from of voters when they bring documentary proof of citizenship with them to vote!”²⁴⁴ As the court saw it, “Defendant’s requirement that proof of citizenship may be accepted only by a deputy registrar cannot survive any level of

²⁴⁰ McDonald Declaration, Tables 3 & 4, p. 8.

²⁴¹ *Georgia Coalition for the People’s Agenda v. Kemp*, 347 F. Supp. 3d at 1264.

²⁴² *Id.*

²⁴³ *Id.*

²⁴⁴ *Id.*, at 1265.

scrutiny.”²⁴⁵ The only justification offered by the state, the court noted, “was because the law requires deputy registrars to do so.”²⁴⁶ This requirement “crumbles” in light of the way in which the state actually implements citizenship identification in the election process.²⁴⁷ As a result the state’s requirements for citizenship verification “sweep broader than necessary to advance the State’s interest, creating confusion as Election Day looms,” and plaintiffs have shown “a substantial likelihood of success on the merits of their claim that Defendant has violated the right to vote for individuals placed in pending status due to citizenship.”²⁴⁸ The court ordered the state “to allow county officials to permit individuals flagged and placed in pending status due to citizenship to vote a regular ballot by furnishing proof of citizenship to poll managers or deputy registrars.”²⁴⁹

94. Elections Division Director Chris Harvey later testified that judicial orders such as this were helpful “in that they gave us specific things to do.”²⁵⁰ He immediately sent out an OEB explaining to local officials: “District Court Judge Eleanor Ross has just issued an injunction regarding the way voters in pending

²⁴⁵ *Id.*

²⁴⁶ *Id.*, citing O.C.G.A. Sec. 21-2-216(g)(1), codifying a provision of HB 268.

²⁴⁷ *Id.*

²⁴⁸ *Id.*, at 1267.

²⁴⁹ *Id.*; Chris Harvey, Official Election Bulletin, “Pending Citizenship Registrations at Voting Locations,” November 2, 2018), summarized District Judge Eleanor Ross’s order granting the preliminary injunction in this case for election officials and registrars.

²⁵⁰ Harvey, August 2019 Deposition, pp. 138-39.

citizenship status are able to resolve their citizenship verification issue at the polls.”²⁵¹ He also made the judge’s order available as an OEB. The key change was that “**Poll Managers**, in addition to Deputy Registrars, be allowed to verify proof of citizenship at the polls.”²⁵² To perform this function poll managers were to be provided with “the list of acceptable proof of citizenship,” which they were also to post for view at the polling place. Poll managers were also to document whenever someone in pending status on citizenship provided proof of citizenship and voted, “so that registrars can update the person’s record in ENET,” and the voter could be restored to active status.²⁵³

95. According to Harvey, the state responded to the changes required by Judge Ross’s injunction by adopting HB 316 (2019).²⁵⁴ Under the new law a voter’s record “will no longer be placed in pending status” when flagged as a non-match by DDS or SSA database matching. Instead, the record “will be flagged Missing Identification Required (MIDR).²⁵⁵ The OEB included an explanation of how to override the non-citizen flag in eNet when a voter provided proof of

²⁵¹ Harvey, OEB (November 2, 2018).

²⁵² *Id.* (emphasis in original).

²⁵³ *Id.* If the voter did *not* have proof of citizenship, he/she was still to be allowed to vote a provisional ballot. *Id.*, p. 3.

²⁵⁴ Harvey, August 2019 Deposition, pp. 138-39.

²⁵⁵ Harvey, Official Election Bulletin, June 26, 2019, p. 1.

citizenship at the polls “and prevent new citizens that have not updated their information with DDS from failing verification.”²⁵⁶

Senate Factor 5: The Continuing Effects of Past Discrimination

96. Political scientists have long documented that disparities in socio-economic characteristics such as educational achievement, per capita or household income, or employment, routinely diminish political participation rates.²⁵⁷ As Bernard Grofman, the political scientist whose expert testimony for the minority plaintiffs was cited approvingly by the Supreme Court in *Gingles*, explained in a co-authored study of the totality of circumstances test: “It is one of the best established generalizations in political science that voter turnout and other forms of political participation are lower for individuals of lower socio-economic status.”²⁵⁸

²⁵⁶ *Id.*

²⁵⁷ See for example, the classic study by Steven J. Rosenstone and Raymond E. Wolfinger, *Who Votes?* (New Haven, Yale University Press, 1978) and, following up on their insights with more recent data, Jan E. Leighley and Jonathan Nagler, *Who Votes Now? Demographics, Issues, Inequality, and Turnout in the United States*, Princeton, Princeton University Press, 2013).

²⁵⁸ Bernard Grofman, et.al., “The ‘Totality of Circumstances Test’ in Section 2 of the 1982 Extension of the Voting Rights Act: A Social Science Perspective,” *Law & Policy*, 7 (April 1985), 199-223 (quoted passage at 220 n. 31). As Jan E. Leighley and Arnold Vedlitz, “Race, Ethnicity, and Political Participation: Competing Models and Contrasting Explanations,” *Journal of Politics*, 61 (Nov. 1999), 1092-1114, observe in a careful empirical analysis based on individual-level data from Texas (at p. 1092, citing decades of research): “Studies of mass participation in the U.S. repeatedly demonstrate the critical importance of socioeconomic status (SES) as a determinant of political involvement.” Their specific empirical findings (at pp. 1098-1099) show higher levels of political participation by Anglos in Texas, than for Blacks, Mexican Americans, and Asian

97. The data in the American Community Survey from the Bureau of the Census document that among Black Georgians 25 years or older, 12.4 percent had less than a high school degree, whereas only 8.8 percent of non-Hispanic whites had failed to graduate from high school. For Asians 13.4 percent had less than a high school degree, but among Hispanics a striking 35.8 percent had not graduated from high school. The same sort of disparities are found in the racial differences among persons over 25 with bachelor's degrees or higher: 25.1 percent of Blacks (and an even lower 19 percent of Hispanics), compared with 35.8 percent of non-Hispanic whites. Asians over 25 years of age were an even higher 56.9 percent.²⁵⁹ As one would expect from data on educational attainment, the proportion of Black Georgians below the poverty level was 20.1 percent, compared with only 9.8 percent among non-Hispanic whites. Among Hispanics, 21.0 percent were below the poverty level, but only 10.4 percent of Asians.²⁶⁰

Americans.

²⁵⁹ American Community Survey, S1501, 2020 5-year Estimates. I calculated each estimate of persons with less than a high school degree by subtracting the proportion with a high school degree or higher from 100 percent. Lower educational achievement was predictably related to economic status. Among all persons with less than a high school degree, 25.3 percent lived below the poverty level. High school graduates were only 15.3 percent below the poverty level, compared with only 10.6 percent of those with some college. Only 4.5 percent of persons with a bachelor's degree or higher fell below the poverty level. *Id.*, S1701, 2020 5-year estimates.

²⁶⁰ *Id.*, S1701, 2020 5-year estimates. The same pattern of disparities is displayed in looking at the percent of families below the poverty level: 16.8 percent among African American and 18.1 percent among Hispanics, compared with 6.6 percent

98. Per capita income, not surprisingly, displayed racial disparities between Blacks and Hispanics when compared with non-Hispanic whites. The average per capita income among Blacks was \$24,114 and \$19,944 among Hispanics, compared with a much higher average per capita income among non-Hispanic whites of \$39,850. Asian per capita income was almost as high as that of whites: \$38,185.²⁶¹ Employment rates displayed a more mixed picture. The unemployment rate among Blacks in Georgia (8.7 percent) was twice as high as that of non-Hispanic whites (4.3 percent). Among Hispanics, however, the unemployment rate was only 4.3 percent (the same as among non-Hispanic whites), and the unemployment rate was even lower (3.3 percent) among Asians.²⁶²

99. In a February 28, 2022, Order Following Coordinated Hearing on Motions for Preliminary Injunction, the court observed that “Plaintiffs have offered un rebutted evidence that Black Georgians suffer socioeconomic hardships stemming from centuries-long racial discrimination.”²⁶³ The analysis by a plaintiffs’ expert political scientist, furthermore, persuaded the court that “many of

among non-Hispanic whites and 7.7 percent among Asians.

²⁶¹ *Id.*, S1902, 2020 5-year estimates.

²⁶² *Id.*, S2301, 2020 5-year estimates.

²⁶³ *Alpha Phi Alpha, et.al., v. Raffensperger*, No. 1:21-CV-5337, No. 1:21-CV-5339, and No. 1:22-CV-122 (N.D. Ga.), February 28, 2022, Order Following Coordinated Hearing on Motions for Preliminary Injunction, slip op., at 212-213, citing expert testimony by political scientist Loren Collingwood, and factual stipulations between plaintiffs and defendants.

the socioeconomic disparities discussed above have been a *cause* of lower political participation among Black Georgians.”²⁶⁴ The court then recited census data (to which the parties had stipulated) addressing the sort of racial disparities in socioeconomic characteristics documented in the preceding paragraphs of this report.²⁶⁵

100. Georgia continues to experience racial disparities in voter turnout between non-Hispanic whites and minority citizens – previously demonstrated in the extended discussion of the history of racial discrimination affecting voting – in recent years. In the 2020 general election, according to the state’s official turnout data by race, white turnout was 72.6 percent of the white registered voters but only 60 percent of registered Blacks turned out to vote.²⁶⁶ Only 55.4 percent of

²⁶⁴ *Id.*, at 214 (emphasis added).

²⁶⁵ *Id.* Parties in cases consolidated with this one stipulated to comparable census data showing racial disparities in socio-economic characteristics. In *Grant v. Raffensperger*, No. 1-22-CV-00122 (N.D. Ga.), Joint Stipulated Facts for Preliminary Injunction Proceedings, February 4, 2022, for example, the parties agreed that: Para. 79, “the unemployment rate among Black Georgians (8.7 percent) is nearly double that of whites Georgians (4.4 percent).” Para. 80, “White households are twice as likely as Black households to report an annual income above \$100,000. Para. 81, “Black Georgians are more than twice as likely . . . to live below the poverty line.” Para. 82, “Black Georgians are nearly three times more likely than white Georgians to receive SNAP benefits.” Para. 83, “Black adults are more likely than white adults to lack a high school diploma – 13.3 percent as compared to 9.4 percent.” Para. 84, “35 percent of white Georgians over the age of 25 have obtained a bachelor’s degree or higher, compared to only 24 percent of Black Georgians over the age of 25.”

²⁶⁶ https://sos.ga.gov/sites/default/files/bulk/Voter_Turn_Out_By_Demographics.

registered Hispanics turned out, but turnout for Asians was 64.6 of those who were registered, a higher rate than any racial group except non-Hispanic whites.²⁶⁷ Voter participation was, as usual, lower in off-year elections than in general presidential elections. In the most recent off-year contest (2022), the lower turnout nevertheless revealed the usual racial disparity: 58.3 percent for whites but only 45 percent for Blacks, 37.5 percent for Asians, and 30.3 percent for Hispanics.²⁶⁸ In the 2016 presidential election turnout was 67.9 for whites, 56.2 percent for Blacks, 53.6 percent for Hispanics, and 52.9 percent for Asians.²⁶⁹ Clearly racial disparities in socioeconomic characteristics continue to depress minority turnout in Georgia.

101. In a very recent case addressing the statewide election of candidates for the Georgia Public Service Commission, the court's discussion of Senate Factor 5 relied on the expert testimony of political scientist Bernard Fraga, who reported the same pattern of racial disparities in turnout as documented in this court's preliminary injunction order: the "lingering effects of discrimination" continue to produce "lower rates of participation in the electoral process."²⁷⁰ The

²⁶⁷ Id.

²⁶⁸ Id. In the 2018 off-year elections, 62.2 percent of whites turned out, compared with an African American turnout of only 53.9 percent. Turnout for Hispanics in the 2018 contests was only 43.2 percent and for Asians only 44.4 percent.

²⁶⁹ Id.

²⁷⁰ *Rose v. Raffensperger*, No. 1:20-cv-02921 (N.D. Ga.), August 5, 2022, Opinion and Order, slip op., at 17, citing the Expert Report of Bernard I. Fraga, April 21,

turnout by race in the statewide Public Service Commission elections from 2016 through the 2021 runoff, using the state’s citizen voting age population as the denominator, showed that non-Hispanic white voters turned out consistently at higher rates than African Americans (differences between five and 10 percent).²⁷¹ Even the defendants’ expert, according to court, testified that there were “large and persistent gaps in voter turnout by race.”²⁷² The court concluded, not surprisingly, that “Senate Factor 5 weighs in Plaintiffs’ favor.”²⁷³

102. In short, there is overwhelming empirical evidence that in Georgia the long-standing racial disparities in both socioeconomic characteristics continue along with lower voter participation by minority citizens in very recent elections, even where candidates preferred by minority voters have won. The pattern of racial discrimination against Blacks in Georgia public education documented in this report in Paragraph 14 above – reinforced by the census data cited by the Department of Justice and summarized in Paragraph 28 above – makes it clear that the current disparities in socio-economic characteristics between African Americans and non-Hispanic whites may accurately be understood as “caused” by

2021.

²⁷¹ Fraga Expert Report, Table 1, p. 6.

²⁷² *Rose v. Raffensperger*, Opinion and Order, slip op., at 48, leading the court to conclude that “Senate Factor weighs in Plaintiffs’ favor.” *Id.*

²⁷³ *Id.*

historical discrimination.²⁷⁴ As the Congress emphasized in amending Section 2 in 1982: “Where these conditions are shown, and where the level of black participation in politics is depressed, plaintiffs need not prove any further causal nexus between their disparate socio-economic status and the depressed level of political participation.”²⁷⁵

Senate Factor 7: Minority Group Members Elected to Public Office

103. Minority representation in public office – like the participation rates of minority voters discussed in the preceding paragraphs – remains lower for each race than its share of Georgia’s registered voters (or voting age population). Black Georgians currently make up 29.5 percent of the state’s registered voters; Hispanics make up 3.9 percent and Asian/Pacific Islanders 2.8 percent of the state’s registered voters. These groups total 36.1 percent, compared with the proportion of registered voters who are non-Hispanic whites (51.6 percent).²⁷⁶ The state’s data show that the non-Hispanic white proportion of Georgia’s registered

²⁷⁴ Of course, Hispanics and Asians have experienced a much shorter history in Georgia, largely restricted to the last three decades, and are a much smaller percentage of the electorate than are blacks.

²⁷⁵ “Report of the Committee on the Judiciary[,] United States Senate[,] on S. 1992, Report No. 97-417, 97th Congress, 2d Session (May 25, 1982), at 29, n. 114.

²⁷⁶ <https://sos.ga.gov/election-data-hub>. These data are provided by the state as of December 5, 2022.

voters (and its voting age population) had been declining – and the minority percentage has been increasing – for years.²⁷⁷

104. Contests for statewide constitutional offices reveal the highest degree of minority under-representation but offices elected by single-member districts, such as the congressional and state districts at issue in this litigation also show a degree of under-representation.²⁷⁸

105. Of the eight Georgia constitutional officers elected statewide, only four Black candidates in modern times have ever been elected to office in statewide general elections – as of January 1, 2022.²⁷⁹ In 1998, 2002, and 2006, Thurbert

²⁷⁷ Non-Hispanic whites made up 53 percent of the state’s registered voters in 2020; Blacks were only 30 percent, Hispanics only 4 percent, and Asian/Pacific Islanders only 3 percent of the registered voters. Source: Georgia Secretary of State, https://sos.ga.gov/index.php/Elections/voter_turn_out_by_demographics. In 2010 non-Hispanic whites made up a larger percentage of the state’s registered voters (61.8 percent), Blacks were 29.2 percent, Hispanics only 1.5 percent, and Asian/Pacific Islanders only 1.3 percent. *Id.* The minority proportion of the state’s voting age population was, of course, higher than its share of the registered voters (because not all eligible adults are registered). Georgia’s voting age population was 32.9 percent single race Black, and 33.8 percent any part Black, according to the 2020 Census; the citizen voting age population was 32.9 percent single race black and 33.8 percent any part Black. *Pendergrass v. Raffensperger*, No. 1:21-CV-05339-SCJ (N.D. Ga.), Joint Stipulated Facts for Preliminary Injunction Proceedings Paragraphs 33 and 34.

²⁷⁸ The districts in use in the 2020 election were, of course, drawn almost a decade earlier, with the exception of a small number of districts realigned in a mid-decade redistricting. Between the decennial census of 2010 and the 2020 census,

²⁷⁹ The election of judges on the Court of Appeals and justices of the Supreme Court), constitute a special case. Members of both courts are elected statewide to staggered six-year terms. See *Legislator’s Guide to the Judicial Branch* (January 2007). Judicial elections operate under special rules not applied to executive or

Baker was elected (and re-elected) Attorney General of Georgia and Mike Thurmond was elected (and re-elected) Commissioner of Labor. David Burgess was elected to the Public Service Commission.²⁸⁰ Burgess was first appointed to the PSC in 1999, narrowly won his first election in 2000, and lost a re-election bid to a white candidate in a runoff election in 2006.²⁸¹ No Hispanics or Asians have ever been elected to statewide office. As was all over the news, however, Raphael Warnock was elected to the U.S. Senate in the January 2021 runoff contest – the first Black person ever elected to the U.S. Senate from Georgia – and then re-elected in 2022.

106. Five of the 14 congressional districts in Georgia elected Black candidates in the 2020 general election (all Democrats).²⁸² One of the five, incumbent Lucy McBath in Congressional District 6 in the suburbs of Atlanta, was re-elected despite the fact that it was a white-majority district.²⁸³ Because of

legislative offices. These judicial offices are discussed below.

²⁸⁰ Bernard Fraga, Expert Report, April 21, 2021, *Rose v. Raffensperger*, No. 1:20-cv-02961-SDG (N.D. Ga.), at 11. Fraga, a political scientist, notes that from 1972 through 2020 there were 164 general elections for statewide office in Georgia. Blacks won only 8 of those contests (4.9 percent).

²⁸¹ *Id.*, at 12-13.

²⁸² See the data regarding officeholding in https://Ballotpedia.org/United_States-congressional_delegations_from_Georgia (hereafter cited as Ballotpedia Congressional).

²⁸³ *Id.* McBath's election in this district illustrates the importance of examining the actual patterns of minority cohesion and white cross-over voting in determining what is necessary for a fairly drawn district. See the classic analysis by Bernard Grofman, Lisa Handley, and David Lublin, "Drawing Effective Minority Districts:

McBath's success in a majority-white district, there were still five Black members in the Georgia congressional delegation (35.7 percent of the delegation).²⁸⁴ One of the nine non-Hispanic white members of Georgia's congressional delegation, Carolyn Bourdeaux in District 7, was a Democrat.²⁸⁵

107. The results of the 2022 general elections did not significantly change the degree of minority representation. In the Georgia congressional delegation there were still 5 African American Representatives; each incumbent was re-elected,²⁸⁶ but only because Lucy McBath moved to the 7th Congressional District after the boundaries of her 6th District were realigned beyond recognition. There were still 9 non-Hispanic whites in the delegation, but one white Democrat – Representative Carolyn Bourdeaux in the 7th District – was not re-elected, and a white Republican replaced Lucy McBath in the 6th District.²⁸⁷

108. The records of the General Assembly identify 56 members who served in the State Senate in the 2021-2022 Regular Session – one for each of the 56 senate districts.²⁸⁸ Of the 56 state senators, white Republicans constituted 34 of the

A Conceptual Framework and Some Empirical Evidence,” 79 *N. Car. L. Rev.* 1383 (June 2001).

²⁸⁴ See Note 277 above, citing Georgia Secretary of State, https://sos.ga.gov/index.php/Elections/voter_turn_out_by_demographics

²⁸⁵ Ballotpedia Congressional.

²⁸⁶ Results.enr.clarityelections.com/GA/115465/web.307039/#/summary.

²⁸⁷ Id.

²⁸⁸ <https://Legis.ga.gov/members/Senate> (hereafter cited as Georgia State Senators).

members (60.7 percent), far above their percentage of the registered voters (53 percent); there was also one Hispanic Republican.²⁸⁹ There were 4 white Democratic state senators (7.1 percent of the members). Thus, there were 38 white state senators (67.9 percent). Among persons of color, there were 16 Black state senators – all Democrats – (28.6 percent of the members).²⁹⁰ Two of the state senators were Asian – both Democrats – (3.6 percent). Two state senators were Hispanic – one Democrat and one Republican – (3.6 percent).²⁹¹

109. The 2022 elections – under the new redistricting plan at issue in this litigation – resulted in 37 non-Hispanic white state senators out of 56 (66.1 percent). Of these non-Hispanic white members, 33 were Republican (60.7 percent) and 4 were Democrats (7.1 percent). There were 17 Black state senators (30.4 percent), all Democrats, 1 Asian, a Democrat, and 1 Hispanic, a Republican (1.8 percent each).²⁹²

110. The records of the General Assembly for the 2021-2022 Regular Session list 184 individuals as serving as members of the State House – although

²⁸⁹ See Note 277 above.

²⁹⁰ Blacks were 30 percent of the registered voters. See Note 277 above.

²⁹¹ https://ballotpedia.org/Georgia_State_Senate_elections_2022; Georgia State Senators; <https://www.sos.ga.gov/georgia-act-voters-report>. Hispanic and Asian state senators were roughly proportional to their percentage of registered voters. See Note 277 above.

²⁹² Id.

there are only 180 House districts.²⁹³ White Republicans made up 106 of the 184 persons serving in the House during the 2021-2022 session (57.6 percent); there were also 20 non-Hispanic white Democrats (10.9 percent). Thus, whites made up 68.5 percent of House members, significantly higher than their proportion of the state's registered voters.²⁹⁴ Blacks made up 53 of the members (28.8 percent), all Democrats; 3 House members were Asian Democrats (1.6 percent), and 2 were Hispanic Democrats (1.1 percent).²⁹⁵

111. There was also little change in minority representation in the state House as a result of the 2022 elections. Black members elected in 2022 made up 54 members of the House (30 percent), up from 53 in 2020 (all Democrats).²⁹⁶ Asian Democrats had increased from 3 elected in 2020 to 6 members after 2022 (3.3 percent), again all Democrats. There are now no Hispanic Democrats in the House. Non-Hispanic white Democrats have declined from 20 elected in 2020 to 16 elected in 2022 (8.9 percent). Non-Hispanic white Republicans are a majority

²⁹³ <https://Legis.ga.gov/members/house> (hereafter cited as Georgia Representatives). It appears that several individuals served less than a full term in the House during the 2021-2022 Regular Session.

²⁹⁴ Georgia Representatives. Including the 20 white Democrats with the 106 white Republicans, non-Hispanic whites were 68.4 percent of the 184 persons who served in the House during the 2021-2022 session. Non-Hispanic whites made up 53 percent of the state's registered voters in 2020. See Note 277 above.

²⁹⁵ Georgia Representatives. Blacks were only 30 percent, Hispanics only 4 percent, and Asian/Pacific Islanders only 3 percent of the registered voters. See Note 277 above.

²⁹⁶ African Americans made up 30 percent of the state's registered voters. Id.

of House members at 103 (57.2 percent); there is one Hispanic Republican.²⁹⁷

Thus non-Hispanic whites make up a total of 119 House members (66.1 percent) – slightly down from 126 in the previous session – but still significantly higher than its 53 percent of registered voters, according to the official figures from the Secretary of State.²⁹⁸

112. Judicial elections represent a special case in Georgia. Looking at the current members of the Georgia Supreme Court supplies an explanation of the special features of election to judicial office in the state, compared to non-judicial offices. Of the nine current justices, *eight* were first appointed to office before running and winning election as incumbents.²⁹⁹ In order to assess the degree to which minority candidates have been elected to judicial office in Georgia – which differs from the process of election for non-judicial office in the state – we must start by examining the appointive process for judges.³⁰⁰

113. The great majority of judges – from the trial court level to all the higher courts – have come to the bench by appointment.³⁰¹ Since Governor Jimmy

²⁹⁷ https://ballotpedia.org/Georgia_State_Senate_elections_2022.

²⁹⁸ <https://sos.ga.gov/Georgia-active-voters-report>. See also Note 277.

²⁹⁹ <https://www.gasupreme.us/court-information/biographies>.

³⁰⁰ See *Georgia v. Reno*, 881 F. Supp. 7 (D.D.C. 1995). The data summarized here are taken from a law review article by one of the lawyers in that case: David F. Walbert, “Georgia’s Experience with the Voting Rights Act: Past, Present, and Future,” 44 *Emory L.J.* 976 (1995).

³⁰¹ *Id.*, at 988. Looking first at the trial court judges, the record from the 1995 case establishes that from 1968 to mid-1944, 133 of the 233 superior court

Carter’s term in office in the early 1970s, “a Judicial Nominating Commission (JNC) has screened applicants and made recommendations to the Governor,” who has appointed judges “almost exclusively from the names recommended by the Commission.”³⁰²

114. The nine current members of the Georgia Supreme Court in 2020-2022 included two persons of color (22.2 percent), both appointed by Governor Brian Kemp: African American Verda Colvin (7.1 percent) and Asian/Pacific Islander Carla Wong McMillan (7.1 percent). Both ran as incumbents for election in 2022 and won.³⁰³ Harold Melton is an African American who served as a Georgia Supreme Court justice from 2005, when he was appointed by Governor Sonny Perdue, until 2018, when he was elevated to Chief Justice, serving until his

judges, were first appointed to office by the governor. Of those serving in mid-1994, 100 of 145 superior court judges (69 percent) were first appointed to office, *not* running in an open election. Thus, when elected, these judges were running as incumbents. During this time period, “there were 621 instances where an incumbent superior court judge stood for election,” and in 530 of those elections the incumbent ran unopposed. In only 26 of the 90 contests where the incumbents had opponents (four percent) did the incumbent lose. A similar pattern characterizes the higher courts.

³⁰² *Id.*

³⁰³ Supreme Court of Georgia: <https://www.gasupreme.us/court-information/biographies>. Justice McMillan is the first Asian American to serve on the Supreme Court and the first to be elected to a statewide office in Georgia, first to the Court of Appeals in 2014, to which she was appointed the previous year by Governor Nathan Deal. *Id.* Justice Colvin had served for almost six years as a superior court judge before appointment to the Supreme Court. *Id.*

retirement in 2021.³⁰⁴ Black Georgian Leah Ward Sears served as an associate justice of the Supreme Court from 1992, when she was appointed by Governor Zell Miller, until 2005; she was then appointed to serve as Chief Justice, retiring in 2009 from the Supreme Court.³⁰⁵ Robert Benham is an African American who was appointed an associate justice in 1989 by Governor Joe Frank Harris. He was elevated to Chief Justice in 1995, serving until 2001; appointed that year to serve once again as an associate justice, Benham retired from the Supreme Court in 2020.³⁰⁶ I am aware of no other persons of color who have served on the Georgia Supreme Court in the modern era, and none who were not first appointed by the Governor – and then always running as incumbents.

115. Of the 14 judges currently serving on the Court of Appeals – one seat is vacant due to the recent death of Black judge Clyde Reese³⁰⁷ – there is now only one person of color on the Court (7.1 percent): Judge Yvette Miller.³⁰⁸ The first Black woman to serve on the Court of Appeals, Judge Miller was appointed in 1999 by Governor Roy Barnes. She was also the first Black woman to serve as

³⁰⁴ *Id.*

³⁰⁵ *Id.*

³⁰⁶ *Id.*

³⁰⁷ *GPB News*, “Georgia Court of Appeals Judge Clyde Reese Dies at 64,” December 19, 2022. I have not found evidence regarding the choice of a replacement for Judge Reese to date.

³⁰⁸ https://ballotpedia.org/Georgia_Court_of_Appeals. Before Judge Reese’s death there were only two minority members of the Court (14.3 percent).

Chief Judge of the Court.³⁰⁹ Governor Barnes also appointed Black judge Herbert Phipps to the Court of Appeals in 1999. Judge Phipps retired before his term ended in 2016 and was succeeded by Judge Clyde Reese.³¹⁰ In 1990 Clarence Cooper, then a Black superior court judge in Fulton County, was appointed to the Court of Appeals in 1990, where he served appointed to the federal bench in 1994 as a district court judge in the Northern District of Georgia.³¹¹

116. *Even in the special case of judicial office*, where gubernatorial appointment of judges and justices enables minority lawyers to run for election in the first instance with the benefit of being incumbents, election of minority candidates to public office in Georgia continued to lag behind the rate of election for non-Hispanic white candidates through the 2020 general election. The 2022 general elections did not change this pattern.

Conclusion

117. My analysis in this report demonstrates that the State of Georgia has a long history of discriminating against Black voters and other voters of color and restricting their franchise. This discrimination is not a relic of the past, but stubbornly persists to this day. Assuming that the plaintiffs meet the *Gingles* preconditions, it is my expert opinion that the Senate Factors I have examined

³⁰⁹ <https://www.gaappeals.us/m-yvette-miller>.

³¹⁰ <https://www.gaappeals.us/Herbert-e-hipps>.

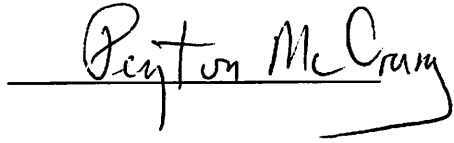
³¹¹ https://ballotpedia.org/Clarence_Cooper.

weigh in favor of finding that Georgia has violated Section 2 of the Voting Rights Act.

I reserve the right to supplement this report if additional facts, testimony, and/or materials that may come to light.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 13th day of January, 2023 at 5:00 PM.

A handwritten signature in black ink that reads "Peyton McCrary". The signature is written in a cursive style and is positioned above a horizontal line that extends to the right and then curves downwards.

Peyton McCrary

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GEORGIA STATE CONFERENCE
OF THE NAACP; GEORGIA
COALITION FOR THE PEOPLE’S
AGENDA, INC.; GALEO LATINO
COMMUNITY DEVELOPMENT
FUND, INC.,

Plaintiffs,

v.

STATE OF GEORGIA; BRIAN
KEMP, in his official capacity as
Governor of the State of Georgia;
BRAD RAFFENSPERGER, in his
official capacity as Secretary of State
of Georgia,

Defendants.

Case No. 23-civ-5338-ELB-SCJ-SDG

Expert Report of Joseph Bagley, Ph.D.

Served on Behalf of the Georgia State Conf. of the NAACP, et al. Plaintiffs

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I. CREDENTIALS

I am an Assistant Professor of History at Georgia State University, Perimeter College. My specific areas of study are United States constitutional and legal history, politics, and race relations, with a focus on the Deep South. I earned a Ph.D. in 2013

from Georgia State and an M.A. (2007) and B.A. (2004) from Auburn University. My first book, *The Politics of White Rights: Race, Justice, and Integrating Alabama's Schools*, is an analysis of federal school desegregation litigation and political change. It was published in November 2018 by the University of Georgia Press in the *Politics and Culture of the Twentieth Century South* series. My current projects include a book manuscript examining the struggle for voting rights in the South, focusing on Alabama, Georgia, and South Carolina, and a public humanities lecture and town hall series, funded in part by a Georgia Humanities grant, and in conjunction with Ebenezer Baptist Church, on civil and voting rights in Atlanta since the pivotal year 1973.

My academic work has been cited in the *Case Western Law Review*, the *Journal of Urban History*, *Rural Sociology*, the *Alabama Civil Rights and Civil Liberties Law Review*, and in the *New York Times Magazine (NYTM)*.¹ I have written book and manuscript reviews for, among others, the University Press of Kansas, *Law and History Review*, the *Journal of Southern History*, the *Alabama Review*, *Mississippi Historical Quarterly*, *Georgia Historical Quarterly*, *Urban History*, and *History of Education Quarterly*.

I have been certified as an expert in all previous voting rights litigation in federal courts wherein I have been presented as a testifying expert. I most recently testified at trial in *South Carolina State Conference of Branches of the NAACP v. Alexander* (D.S.C., 2022); the court therein tendered me as an expert in “American political history, southern legal history, political analysis, historical methods, the history of race discrimination and voting with a particular focus on South Carolina and southern race relations and southern politics and law.” I submitted an expert report and a rebuttal report in that case, in which plaintiffs alleged racial gerrymandering and intentional discrimination in the drawing of the state’s Congressional districts following the 2020 Census. The Court recently ruled that the South Carolina General Assembly had engaged in racial gerrymandering in its

¹ Wendy Parker, “Why Alabama School Desegregation Succeeded (And Failed),” 67 *Case Western Law Review*, 1091 (2017); Rebecca Retzlaff, “Desegregation of City Parks and the Civil Rights Movement: The Case of Oak Park in Montgomery, Alabama,” *Journal of Urban History* 47.4, 715 (2019); Erika Frankenberg, “The Impact and Limits of Implementing Brown: Reflections from Sixty-Five Years of School Segregation and Desegregation in Alabama’s Largest School District,” 11 *Alabama Civil Rights and Civil Liberties Law Review*, 33 (2019); Bryan Mann, “Segregation Now, Segregation Tomorrow, Segregation Forever? Racial and Economic Isolation and Dissimilarity in Rural Black Belt Schools in Alabama,” *Rural Sociology* 86.3, 523 (2021). Nikole Hannah-Jones, “The Resegregation of Jefferson County,” *The New York Times Magazine*, Sept. 6, 2017.

drawing of the First Congressional District, ordered the legislature to redraw the lines, and cited to my report in its Findings of Fact and Conclusions of Law.² I also submitted a report and rebuttal report in the state House phase of that litigation, *South Carolina NAACP v. McMaster*.³

Prior to the South Carolina litigation, I submitted two reports and testified at a preliminary injunction hearing in *Milligan v. Merrill* (N.D. Ala.), an ongoing redistricting case in which plaintiffs alleged that Alabama violated §2 of the Voting Rights Act in the drawing of its Congressional districts following the 2020 Census. In a memorandum order and opinion granting a preliminary injunction, the trial court in *Milligan* found that I was a “credible expert witness” who “prepared [a] lengthy, detailed report that set forth substantial evidentiary bases for [my] opinion[s] in a manner that [was] consistent with [my] expertise and applicable professional methods and standards.” The Court cited my report and testimony 32 times and observed that “At the preliminary injunction hearing, Dr. Bagley explained at a high level the bases for the detailed opinions on these issues that appear in his report.” (*Milligan*, Jan. 24, 2022, pp. 80, 185).

I also submitted a report, testified in a deposition and at trial, and was cited favorably in the Court’s opinion in *People First of Alabama v. Merrill*, 491 F. Supp. 3d 1076 (N.D. Ala. 2020), a case in which plaintiffs challenged certain voting restrictions imposed by the state in the context of the Covid-19 pandemic. The Court in *People First* cited to my report 26 times and quoted directly from my testimony at trial (at 1106).⁴

I am compensated at the rate of \$150 per hour for my work in preparing this report. This compensation is not dependent upon my findings, and my opinions stated in this report do not necessarily represent the sum total of my opinions in this matter, which are subject to change upon further research or findings. I append to this report a C.V., which lists in full my educational background, publications, and prior testimony.

² *South Carolina State Conf. of the NAACP v. Alexander et al.*, C/A No.: 3:21-cv-03302-MGL-TJH-RMG, Findings of Fact and Conclusions of Law, Jan. 6, 2023, p.8 (D.S.C.).

³ Consent Decree entered (D.S.C., 2022).

⁴ 467 F.Supp.3d 1179 (N.D. Ala. 2020).

II. PURPOSE, METHODOLOGY, SUMMARY FINDINGS

Plaintiffs in this case have asked me to examine the drafting, passage, and enactment of the Georgia General Assembly’s new Congressional, state House, and state Senate redistricting plans (SB 2EX/AP, SB 1EX/AP, and HB 1EX LC 47 1163S/AP, respectively) and to offer my opinion as to whether those processes, within their appropriate historical and contemporaneous contexts, are evidence of intentional discrimination against Voters of Color. In my opinion, as reflected in this report, the record reveals enough to support this Court reaching a finding of discriminatory intent as to all three.

Experts in cases assessing the constitutionality of state action relative to discriminatory intent have followed guidelines set forth by the U.S. Supreme Court in *Village of Arlington Heights v. Metropolitan Housing Corp.*, 429 U.S. 252 (1977). Direct, “smoking gun” evidence of intentional discrimination was difficult to find in 1977 and is even harder to find now. As I explain in my own work, White lawmakers have learned how to “colormask” their intentions and defend their prerogatives in courts of law without using the usual plain language that would open them up to legal failures. Cognizant of this even then, the Court in *Arlington Heights* called for lower courts to undertake a “sensitive inquiry into such circumstantial and direct evidence of intent as may be available” by considering certain enumerated factors (*Id.* at 266).

Among those factors are (1) “The impact of the official action – whether it bears more heavily on one race than another.” The Court acknowledged that rare were the times when, as in the historical cases of *Yick Wo v. Hopkins* or *Gomillion v. Lightfoot*, this initial inquiry alone might make it plainly obvious that there was discriminatory intent. Absent such circumstances, it directed inquiry towards (2) “The historical background of the decision . . . particularly if it reveals a series of official actions taken for invidious purposes”; (3) “The specific sequence of events leading up to the challenged decision . . .”; (4) “Departures from the normal procedural sequence . . .” and “Substantive departures . . . particularly if the factors usually considered important by the decisionmaker strongly favor a decision contrary to the one reached”; (5) and “The legislative or administrative history . . . especially where there are contemporary statements by members of the decision-making body, minutes of its meetings, or reports.” *Id.* at 265-266.

Insofar as the Supreme Court directed trial courts to use this framework in making determinations on discriminatory intent, experts, in my understanding,

should also follow this guidance in assisting courts to do the same. As such, and as a historian, I analyze here the second, third, fourth, and fifth *Arlington Heights* factors. The historical background relevant to invidious discrimination in voting, the legislative sequence of events and the legislature's procedures, and the statements made in the legislative history examined herein are, in my opinion, relevant to the Court's assessment of whether the General Assembly's actions in enacting SB 2EX/AP, SB 1EX/AP, and HB 1EX LC 47 1163S/AP are part of a continuum of the State of Georgia's longstanding acts of discrimination in voting and redistricting, particularly against Voters of Color.

In approaching this, I am guided by the common standards of historiography. This report thus draws upon existing, relevant, and well-regarded historiographical works, that is to say, valuable secondary sources. It relies as well upon primary sources in the form of historical and contemporaneous press coverage; U.S. Justice Department documents; relevant caselaw; and information made available to the public via the General Assembly's Legislative and Congressional Reapportionment Office online and the General Assembly's House Legislative & Congressional Reapportionment Committee and Senate Reapportionment & Redistricting Committee online, including video of proceedings, agendas, minutes, submissions from the public, and approved guidelines. These represent common sources for scholars in the humanities and the social sciences to reference, and I weigh all of these against one another, as is common in the field.

Plaintiffs have also asked me to opine on one of the so-called Senate Factors. These factors are derived from a Senate Judiciary Committee Report published during the reauthorization of the Voting Rights Act in 1982 and were adopted by the Supreme Court in the landmark *Gingles* decision that followed shortly thereafter. They typically inform expert inquiries in Section 2 litigation. Plaintiffs have only asked me to evaluate Senate Factor 6, which asks whether political campaigns in the area or political subdivision in question – here, of course, the State of Georgia – are “characterized by subtle or overt racial appeals.”

In my book, I discuss what I call colormasking, or what others have sometimes called colorblindness, a term I find is misleading to many people. I explain how lawmakers in the latter half of the 20th Century learned how to talk about and make laws designed to protect white rights without using overtly racial language. They were able to use coded language and thinly veiled racial appeals. Prominent examples include Ronald Regan's ads talking about the “Welfare Queen” and

George H.W. Bush’s “Willie Horton Ad” accusing Michael Dukakis of being “soft on crime.” These types of ads are currently being run in Georgia even as, in the last decade, are ads and campaign statements featuring blatant racial appeals. These ads and statements have targeted Black, Latinx, and AAPI citizens. I discuss a few of these below.⁵

Based upon my review of the evidence – the historical background of invidious voter discrimination in Georgia, particularly in redistricting; the legislative history of the bills in question; procedural and substantive irregularities in the drafting and passing of those bills; the statements made by legislators during this process; and the information made available to the public – it is my opinion that the Court has strong support for reaching a finding of discriminatory intent. Below, I flesh out those factors. I begin with the history of minority voter discrimination in Georgia, though I try not to waste the Court’s time rehashing too much of the obvious.

III. THE HISTORICAL BACKGROUND – BEFORE THE VOTING RIGHTS ACT

a. The Relevant and ‘Distant’ Past, Briefly

The legal sins of the distant past do not alone condemn a state to atone forever, legally or constitutionally, for discrimination.⁶ But, for a state founded as a colony within a slave society that operated on the principles of chattel and race-based slavery, that past is never irrelevant. This court recently, in assessing the expert report and testimony of Professor Orville Vernon Burton in the ongoing and consolidated *Alpha Phi Alpha Fraternity, Pendergrass, and Grant* litigation, held that “Defendants seemingly attempted to cast aside this history as long past and therefore less relevant. . . . Of course,” the court continued, “whether some of the history Dr. Burton discussed is decades or centuries old does not diminish the importance of those events and trends under this Senate Factor [Senate Factor 1, a history of discrimination, especially for “invidious purposes”], which specifically

⁵ Bagley, *The Politics of White Rights: Race Justice and Integrating Alabama’s Schools* (Athens: University of Georgia Press 2018), pp.7-11. See also Wayne Flynt, *Alabama in the Twentieth Century*, pp. 104-5; Dan Carter, *From George Wallace to Newt Gingrich: Race in the Conservative Counterrevolution, 1963-1994* (Baton Rouge: Louisiana State University Press, 1999), and Joseph Crespino, *In Search of Another Country: Mississippi and the Conservative Counterrevolution* (Princeton University Press, 2009), passim.

⁶ *Shelby County v. Holder*, 570 U.S. 529, at 532.

requires the Court to consider the history of official discrimination in Georgia. And it is not a novel concept that a history of discrimination can have present-day ramifications.”⁷

Therefore, when assessing the State of Georgia’s adherence to federal statutory and constitutional law relevant to voters of color, its entire past must at least be acknowledged, even if only briefly. An inquiry into the background of a redistricting plan passed by the Georgia General Assembly, in other words, must consider that Black people in the state were once held in bondage, never had the benefit of a land redistribution program, and were subjected to more than a century of relentless efforts, by both parties under White control, to prevent, obstruct, dilute, or manipulate their vote.

Georgia was among the first British North American colonies to import enslaved Black people by the hundreds of thousands from the Caribbean and West Africa for the exclusive purpose of growing cash crops – initially rice and indigo in the Low Country and, later, cotton in the east-central and southwestern Black Belt. Rice was America’s most valuable exports until it was surpassed by cotton following Indian Removal and westward expansion in the 1830s. Georgia was within the breadbasket in both cases, meaning that white landowners amassed incredible wealth using the labor of the Black enslaved, who themselves were the most valuable commodities in the nation, per the legal terms of a chattel system.⁸

When Abraham Lincoln was elected President in 1860, as part of a new coalition opposing the expansion of slavery into America’s western territories, Georgia was among the first states to declare its purported secession from the American Union. Following the Confederacy’s defeat in the Civil War, Georgia was also among the first states to enact “Black Codes” limiting the rights of formerly

⁷ Alpha Phi Alpha v. Raffensperger, Pendergrass v. Raffensperger, and Grant v. Raffensperger, C.A.s No. 1:21-CV-5337-SCJ, No. 1:21-CV-5339-SCJ, and No. 1:22-CV-5339-SCJ, “Order Following Coordinated Hearing on Motions for Preliminary Injunction,” Feb. 22, 2022 (N.D. Ga.); the court cited to “Marengo Cnty. Comm’n, 731 F.2d at 1567; Wright, 301 F. Supp. at 1319 (quoting Marengo Cnty. Comm’n).”

⁸ James C. Cobb and John Inscoe, Georgia History, *New Georgia Encyclopedia* (University of Georgia Press, 2022), <https://www.georgiaencyclopedia.org/articles/history-archaeology/georgia-history-overview/>.

enslaved Black people, including the right to vote or to hold office, in the face of the forced ratification of the 13th Amendment.⁹

b. Reconstruction and Redemption

During Congressional Reconstruction, Georgia declined to ratify the 14th Amendment, which ultimately invalidated the post-war Black Codes. In elections in 1868, the Republican Party won a majority of seats in the state legislature, and 25 Black citizens were elected to the state House and 3 to the state Senate, despite the organization of the Ku Klux Klan in the state and an upsurge in violence aimed at keeping Black people from the polls. Democrats in the newly elected legislature secured enough support from sympathetic white Republicans, however, to pass a resolution refusing to seat the Black members, prompting Congress to restore military rule in the state and to force it to ratify the 15th Amendment.¹⁰

Apathy on the part of the federal military governor during the 1870 elections allowed violence, intimidation, and fraud to increase such that Democrats took back control of the state legislature. When the Republican governor was forced to resign or face impeachment, and a Democrat was elected to take his place, the way was opened, even before the removal of federal troops, for the total disenfranchisement of Black citizens to begin. According to the legal scholar Laughlin McDonald, during the so-called “Redemption” that ensued, “No state was more systematic and thorough in its efforts to deny or limit voting and officeholding by African-Americans” than Georgia.¹¹

Likewise, the historian Morgan Kousser has observed, “The most comprehensive effort to undo Reconstruction . . . occurred in Georgia, whose legislature fell into Democratic hands in 1870,” the Republican Party having been in power only five years.¹² The Democrat “Redeemers” set about using, in Kousser’s words “widespread terrorism and fraud” in order to thwart Black voting. A small number of Black members were elected to the state House in 1870 (four) and 1872 (three), but they faced being jailed on spurious charges or being beaten and intimidated into not taking their seats. “Sabre clubs” patrolled near polling places

⁹ Eric Foner, *Reconstruction: America’s Unfinished Revolution* (New York: 1999, 2002), pp. 423-44.

¹⁰ Foner, *Reconstruction*, pp. 590-99; Orville Vernon Burton, *The Age of Lincoln* (New York: Hill and Wang, 2007), pp. 274-76.

¹¹ Foner, *Reconstruction*, 595-99; Burton, *The Age of Lincoln*, pp. 304-5.

¹² Laughlin McDonald, *A Voting Rights Odyssey: Black Enfranchisement in Georgia* (Cambridge: Cambridge University Press, 2003, 2009), 29-37.

and used such tactics to keep Black voters from the polls, and local registrars selectively enforced an annual poll tax requirement. Democratic leaders eventually replaced the state's Reconstruction constitution, in 1877, with one that established a cumulative, or compounding, poll tax. The latter ensured that the Georgia GOP was effectively finished, as it then depended on Black voter participation.¹³

c. Populism, the White Primary, and Lynching

In response to the rising Populist movement, which threatened to put the Black vote back into play in the 1890s, Georgia Democrats introduced the white primary system, giving party officials total power over primary elections, and a literacy test that could easily be administered in a discriminatory fashion, in order to bar Black citizens from voting in the only election that mattered once the Populist threat was overcome. As McDonald explains, "Populism was defeated in Georgia because whites become convinced that white supremacy was the paramount goal, and that the achievement of that goal depended on the unity of white in the Democratic party. The glimmer of racial accommodation in the Populists' plea for economic fairness and their repudiation of lynch law was snuffed out by the demagogic and destructive use of the race issue by state and local politicians."¹⁴

With the passage of the Hardwick Disenfranchising Act in 1908, which the Supreme Court would later acknowledge was "specifically designed to prevent Negroes from voting," William H. Rogers, the last remaining Black member of the Georgia General Assembly, resigned. Five years later, the state implemented a new registration protocol whereby voters had to submit to an examination by a board of registrars, members of which would of course be all White. Black voter registration fell from 28.3 percent in 1904 to 4.3 percent by 1910. Since 1868 a total of 58 Black men had served in the General Assembly, all as Republicans. No other Black person would serve in that body for another half century.¹⁵

¹³ Morgan Kousser, *The Shaping of Southern Politics: Suffrage Restriction and the Establishment of the One-Party South, 1880-1910* (New Haven: Yale University Press, 1974), 209-216.

¹⁴ Kousser, *The Shaping of Southern Politics*, pp. 41-42, 72, 78, 214-21.

¹⁵ Laughlin McDonald, Michael B. Binford, and Ken Johnson, "Georgia," in Chandler Davidson and Bernard Grofman, Eds, *Quiet Revolution in the South: the Impact of the Voting Rights Act, 1965-1990* (Princeton: Princeton university Press, 1994), pp. 67-102, p. 67; Robert A. Holmes, "The Georgia Legislative Black Caucus: An Analysis of a Racial Legislative Subgroup," *Journal of Black Studies* Vol. 30, No. 6, Special Issue: African American State

Violence and intimidation meted out against Black Georgians remained commonplace during this time, including in the form of the Atlanta Race Riot of 1906, when a white mob rampaged through Black sections of the city and killed anywhere from 25 to 40 Black people.¹⁶ According to the Equal Justice Initiative, between 1877 and 1950, there were 595 reported cases of lynching in Georgia.¹⁷ Some 450 of these occurred between 1889 and 1930.¹⁸ Jim Crow segregation was also enshrined in Georgia in the first half of the 20th century. Indeed, maintaining segregation depended upon upholding the barriers to Black political participation that white Democrats had erected during the Redemption. Preventing access to the franchise was the most elemental component of white supremacy. This remained the order of the day in Georgia until after World War II. Even then, Georgia was at the forefront of fighting staunchly against any and all efforts to break down that system.

d. Post-World War II

The U.S. Supreme Court invalidated the white primary in *Smith v. Allwright* in 1944. Georgia repealed the poll tax the following year. As Black voter registration began to climb, veteran attorney A.T. Walden and the “mayor” of the Auburn Avenue Black community, John Wesley Dobbs cofounded the Atlanta Negro Voters League (ANVL) in 1946, in order to keep that momentum going and to push for further gains. Walden also helped form the All-Citizens Registration Committee of Atlanta the following year. By 1949, Black voters accounted for 27 percent of the city’s electorate and were instrumental in securing reelection for Mayor William Hartsfield, who in turn agreed to hire Black police and firefighters and to build more parks and playgrounds in Black communities. The state, however, remained committed to barring Black citizens from the electoral process. The General Assembly in 1949 passed a registration and purge law. It purged without notice any voter who had not voted in the preceding two years and subjected prospective voters to a voter qualification questionnaire that was designed to be used only for Black would-be registrants and which was also designed to have questions for which the

Legislative Politics (July 2000), pp. 768-790, pp. 768-69; Kousser, *Shaping of Southern Politics*, pp. 217-19; McDonald, *A Voting Rights Odyssey*, pp. 37-41.

¹⁶ Kliff Kuhn and Gregory Mixon, “The Atlanta Race Riot of 1906,” *The New Georgia Encyclopedia*, 2005, 2020, University of Georgia Press.

¹⁷ Equal Justice Initiative, “Lynching in America,” <https://eji.org/reports/lynching-in-america/>.

¹⁸ Numan Bartley, *The Creation of Modern Georgia*, 2d (Athens: University of Georgia Press, 1983, 1990), pp. 139-40.

answer would change so that anyone trying to coach applicants would have a harder time doing so.¹⁹

When the Supreme Court decided *Brown v. Board of Education* in 1954, the State of Georgia became one of the earliest and most strident practitioners of Massive Resistance to school desegregation, pursuing at one point a policy of eliminating public education in favor of tuition waivers to private schools. Three years later, the state registered its staunch opposition to the Civil Rights Act of 1957, which demonstrated only a very modest commitment from the federal government to the issue of Black citizenship rights in the South. The Georgia General Assembly created an Election Laws Study Commission, which recommended rewriting the state's election code, making the voter registration questionnaire more difficult and raising the score needed to pass. It also called for disenfranchising citizens convicted of a list of crimes for which Black people were more frequently convicted. Members openly explained that these changes were designed to prevent the "bloc vote" from growing, by which they meant the Black vote, and to prevent organizations, most especially the NAACP, from registering and organizing Black voters. But the legislators had learned that the laws themselves had to be "colorblind" in order to pass legal muster.²⁰

e. One Person, One Vote

In *Baker v. Carr* in 1962, the U.S. Supreme Court held that redistricting was a justiciable issue, opening the way for the invalidation of malapportioned state legislative schemes like Georgia's. In deeming the state's county unit system unconstitutional, the Court in *Gray v. Sanders* articulated for the first time the idea of "one person, one vote," which it would enshrine nationwide two years later in *Reynolds v. Sims*.²¹ The county unit system in Georgia had been adopted in 1917 primarily to ensure that the White voters in the rural Black Belt, the old plantation belt, could dominate statewide elections even as urban areas grew and far outpaced the rural areas of the state in population. The system afforded counties twice as many

¹⁹ Tomiko Brown Nagin, *Courage to Dissent: Atlanta and the Long Civil Rights Movement* (New York: Oxford University Press, 2011), pp. 55-56; McDonald, *A Voting Rights Odyssey*, pp. 55-6; McDonald et al, "Georgia," in *Quiet Revolution in the South*, p. 70.

²⁰ Jeff Roche, *Restructured Resistance: the Sibley Commission and the Politics of Desegregation in Georgia* (Athens: University of Georgia Press, 1998, 2010), pp. 23-31; McDonald, *A Voting Rights Odyssey*, pp. 72-4.

²¹ *Sanders v. Gray*, 203 F.Supp. 158 (N.D. Ga. 1963), vacated, *Gray v. Sanders*, 372 U.S. 368 (1963), 381; *Reynolds v. Sims*, 377 U.S. 533 (1964).

unit votes in the primary election (in effect, the general election) as they had representatives in an already malapportioned map. The candidate who won a majority of a county's popular vote was entitled to all of its unit votes. The court in *Sanders* acknowledged that the result was a severe degradation of the power of votes in urban counties. Lawmakers understood that the county unit system had become a bulwark against the "bloc vote" as well, since Black voter organizations like the NAACP had been most successful in organizing in places like metropolitan Atlanta.²²

Later that year, a U.S. district court in *Toombs v. Fortson* invalidated Georgia's state legislative scheme on one-person, one-vote grounds and ordered the General Assembly to reapportion at least one of its houses on the basis of equal population among districts. Lawmakers decided to reapportion the Senate but were faced with the very real prospect of a Black candidate winning an election in a single-member district, especially in Atlanta/Fulton County. Governor Carl Sanders thus put forth the idea of multimember districts, countywide elections, and a majority vote requirement in urban areas. It was widely reported that the expressed purpose of such a scheme was to avoid having a Black member elected. The General Assembly adopted the plan, but implementing it required amending the state's constitution to allow at-large countywide voting, which could not happen without a referendum. Atlanta attorney Leroy Johnson, an A.T. Walden protégé, was elected to Senate District 38 in the fall of 1962 and became the first Black member of the General Assembly since Reconstruction. Johnson had to lobby Governor Sanders to take down the Whites only and Colored signs in the state capitol. By that time, the Black voter population share in the city of Atlanta had risen to 34 percent.²³

The following year, the General Assembly created a new Election Law Study Committee (ELSC) and tasked it with rewriting the state's election laws in the wake of the county unit system's demise. The committee submitted its recommendations the following spring, at the same time southern Senators were filibustering what would become the Civil Rights Act, which the Georgia General Assembly

²² Brown Nagin, *Courage to Dissent*, 196-97; McDonald, *A Voting Rights Odyssey*, pp. 83-84

²³ *Toombs v. Fortson*, 379 U.S. 621 (1965); Brown Nagin, *Courage to Dissent*, 254-55; Holmes, "The Georgia Legislative Black Caucus," pp. 769-770; Charles Bullock, "The History of Redistricting in Georgia," *Georgia Law Review*, Vol. 52, No. 4, pp. 1057-1104, pp. 1062-63.

condemned in a resolution and the owners of the Heart of Atlanta Motel challenged in an unsuccessful lawsuit.²⁴

The Supreme Court at that time also handed down *Reynolds v. Sims*, which the Georgia state House also condemned, calling the day of its rendering “the saddest day in American history.”²⁵ The Court in *Reynolds* held that all state legislatures had to reapportion both chambers in their respective bodies in order to account for one-person, one-vote. The ELSC’s proposal included a literacy test and voter understanding test, a prohibition on assistance to voters, a numbered-post requirement for multimember districts, and a comprehensive majority vote requirement. Though some proponents of these changes put forth ‘good-governance’ arguments, it was widely understood that the most influential supporters were looking to blunt the impact of the “bloc vote,” meaning the Black vote.²⁶

That same year, the Court struck down Georgia’s congressional redistricting in *Wesberry v. Sanders*. As under the county unit system and the then-invalidated legislative apportionment, Georgia’s congressional apportionment deeply undervalued the votes of citizens in urban areas, particularly in metro Atlanta’s Fifth Congressional District. At the same time, the Supreme Court upheld the use of multimember districts in state legislatures in *Fortson v. Dorsey* in 1965, though it did signal a willingness to scrutinize such schemes more closely when it held that redistricting plans might be invalidated if they “operate[d] to minimize or cancel out the voting strength of racial or political elements of the voting population” (379 U.S. 433, 438, quoting from *Reynolds v. Sims*). Leroy Johnson was joined in the Senate by attorney Hank Ford as only second Black member of the General Assembly since Reconstruction.²⁷

²⁴ McDonald, *A Voting Rights Odyssey*, pp. 91-100; Heart of Atlanta Motel, Inc. v. United States, 379 U.S. 241 (1964)

²⁵ McDonald, *A Voting Rights Odyssey*, p. 101.

²⁶ J. Morgan Kousser, *Colorblind Injustice: Minority Voting Rights and the Undoing of the Second Reconstruction* (Chapel Hill: University of North Carolina Press, 1999), pp. 198-202; McDonald, *A Voting Rights Odyssey*, pp. 91-102.

²⁷ *Wesberry v. Sanders*, 376 U.S. 1 (1964); Kousser, *Colorblind Injustice*, p. 333; Holmes, “The Georgia Legislative Black Caucus,” p. 770; Bullock, “The History of Redistricting in Georgia,” *Georgia Law Review*, pp. 1063-64.

IV. THE HISTORICAL BACKGROUND – AFTER THE VOTING RIGHTS ACT

a. The Voting Rights Act

The passage of the Voting Rights Act in 1965 led to the invalidation of portions of the State of Georgia's collective barrier to Black political participation, most immediately in the form of its literacy test being struck and in the appointment of federal registrars. Georgia was also subject to the coverage provisions of Sections 4 and 5 of the VRA. This meant that the state was to submit any changes to election to the Justice Department's Civil Rights Division for preclearance, a charge that the state largely ignored for several years, as local governing bodies like county commissions, city councils, and school boards switched from single-member districts to at-large schemes with numbered posts and majority vote requirements.²⁸

In single-member district elections, with an increase in Black voter registration then likely, Black voters in majority Black areas had an opportunity to elect candidates of their choice beyond just Leroy Johnson. As had been the case in Fulton County in the previously adopted state Senate plan, White lawmakers switched to at-large elections with majority vote requirements to avoid that possibility. Numbered posts enhanced the dilutive and discriminatory nature of such schemes. In a pure at-large system, all candidates would compete with one another for the seats up in a given election, and all voters could cast as many votes as there were seats at issue. They were not required to cast all of their available votes. If five seats were open, for example, the five candidates with the most votes won. This allowed a group of voters to engage in "single-shot" voting, or casting one vote for the same candidate and not casting any of their remaining votes for candidates competing with that preferred candidate. Numbered posts precluded single-shot voting, since each contest was head-to-head. Numerous counties across the state were able to pass such plans through the General Assembly and implement them either shortly before or after the VRA's passage, when the Johnson administration was focused on voter registration.²⁹

Meanwhile, the *Toombs v. Fortson* litigation led to the Georgia General Assembly implementing a plan for the state House that met the one-person, one vote

²⁸ McDonald et al., "Georgia," in *Quiet Revolution in the South*, pp. 75-79.

²⁹ McDonald, *A Voting Rights Odyssey*, pp. 131-32; McDonald et al., "Georgia," in *Quiet Revolution in the South*, pp. 81-82.

requirement but included both single and multimember districts. The plan allowed for the election that fall, 1965, of the first Black members to the House since Reconstruction, including a young Julian Bond. Six Black members were elected from Atlanta, one from Augusta, and one from Columbus. Bond was denied the oath of office, however, ostensibly on account of his opposition to the war in Vietnam, though realistically because he was not only Black but young and brash and a natural target for White legislators who bristled at the presence of Black members in the body. Bond was denied his seat following two subsequent elections and only took it when a federal court ruled that his First Amendment rights had been violated.³⁰

b. Section 5 Objections – the 1970s

The number of Black members of the General Assembly very slowly increased in 1968 and 1970, and the Justice Department began to interpose Section 5 objections to changes in Georgia election law. The first objection came in 1968 in response to the state's attempt to limit the number of illiterate voters that a single individual could assist, a restriction that was not in the state's election code prior to the adoption of the VRA and the invalidation of the state's literacy test. The second objection involved a second submission by the state attempting to establish the same restriction relative to municipal elections as well as a requirement that poll officials be "judicious, intelligent, and upright electors," qualifications that the CRD found to be "vague and subjective" and subject to "discriminatory application." The third CRD objection came in response to a handbook sent by Secretary of State Ben Fortson to Georgia election officials advising them of limitation on assistance to illiterate voters that did not purport necessary changes indicated in the previous two objections.³¹

Subsequent to these initial objections aimed at the state, between 1968 and 1979, the Attorney General registered objections to changes in local election law, at the county and municipal level, 73 times.³² While local in nature, these changes were made by way of delegations passing legislation through the General Assembly.

³⁰ Bond v. Floyd, 385 U.S. 116 (1966); Holmes, "The Georgia Legislative Black Caucus," p. 771-72.

³¹ Assistant Attorney General for Civil Rights Stephan Pollack to Georgia Attorney General Arthur K. Bolton, June 19 and July 28, 1968; Pollack to GA Secretary of State Fortson, Aug. 30, 1968; Justice Department Civil Rights Division Section 5 Objection Letters by State, State of Georgia, <https://www.justice.gov/crt/voting-determination-letters-georgia>.

³² Justice Department Section 5 Objection Letters. Ten of those 73 were withdrawn.

Many of them concerned counties of municipalities in the Congressional, Senate, and state House districts challenged by Plaintiffs in this case.

A few examples from the year 1971 are illustrative. Clarke County attempted to reduce the number of districts for its county commission, and in the process of redistricting drastically underpopulated the most heavily Black district. The CRD could not conclude that the plan would not have a racially discriminatory effect. Bibb County tried to switch from an appointed board of education (which at the time had 2 Black members) to one that would be elected at-large, countywide. The county's population was roughly 34 percent Black. The CRD concluded that Black representation on the board could be eliminated as a result of the change. The CRD similarly found that the City of Newnan's attempt to implement a numbered post scheme could have a discriminatory effect and purpose and registered objection. Later that year, the City of Conyers moved to implement a numbered post scheme and majority vote requirement for elections for mayor and alderman, and the AG objected since he could not conclude that these changes would "not have the effect of abridging voting rights on account of race or color."³³

c. Redistricting – 1970s Cycle

When the General Assembly passed redistricting plans for the state House, state Senate, and for Congress, after the 1970 Census, the Attorney General objected to all three. The state House plan included the usual characteristics of a racially dilutive plan – multimember districts, numbered posts, and a majority vote requirement, along with suspicious adjustments to potentially majority-Black single-member districts. The AG objected to the Senate plan based on the boundaries for District 36, Fulton County/Atlanta, and District 22, Richmond County/Augusta. He could not determine that the proposed boundary lines would not have a "discriminatory racial effect" by "minimizing or unnecessarily diluting black voting strength in those areas."³⁴

The CRD objected to the state House plan because 49 out of the 105 districts were multimember districts with numbered posts and were subject to the state's

³³ David L. Norman Assistant Attorney General, Civil Rights Division, to C.R. Vaughn, Jr. Esq., Dec. 2, 1971; see also David L. Norman: Acting Assistant Attorney General, Civil Rights Division, to Upshaw C. Bentley, Aug. 6, 1971; AAG Norman to E.S. Sell Jr., Aug. 24, 1971; and AAG Norman to Charles L. Godwin, Oct. 13, 1971; Justice Department Section 5 Objection Letters.

³⁴ David L. Norman, Assistant Attorney General for Civil Rights, to Arthur K. Bolton, March 3, 1972, CRD Section 5 Objection Letters by State.

majority vote requirement. Assistant Attorney General for Civil Rights David Norman also noted that 52 of the 105 districts were made up of portions of counties, “suggest[ing] that the state’s traditional policy of maintaining county lines in designing legislative districts has been significantly modified.” Norman concluded, citing recent federal caselaw, that this combination of factors “would occasion a serious potential abridgment of minority voting rights.” Finally, he noted that in the eastern Black Belt there was a large and sufficiently contiguous Black population that could support “at least three” new majority Black single member house districts and that it appeared that the Black population had instead been cracked and stacked with parts of neighboring counties that were majority White.³⁵

The Attorney General’s office also refused to preclear the General Assembly’s 1971 congressional plan. White lawmakers had been candid in their desire to ensure that a “white, moderate, Democratic Congressman” would get elected to the Fifth Congressional District. Some singled-out Julian Bond in fearmongering, insisting that the “worst thing” that could come of redistricting would be Bond’s election to Congress. Other rumored candidates for a Fifth District with a significant Black population were Andrew Young and Maynard Jackson. In the plan passed by the General Assembly, neither Young’s nor Jackson’s residence was in the Fifth, and the Black population of metropolitan Atlanta was cracked between districts 4, 5, and 6. The AG objected to the plan specifically on the basis of the boundary between CDs 5 and 6, unable to conclude that the makeup of these districts would not “have a discriminatory racial effect by minimizing or diluting black voting strength in the Atlanta area.” Young was elected to represent CD 5 in 1972, the second Black citizen to represent Georgia in Congress, joining Jefferson Franklin Long, who served less than three months in 1871.³⁶

The General Assembly passed new plans for the Senate and House that year, 1972, and the Senate plan passed muster under Section 5. It included all single-member districts, with 2 being majority Black. The House plan again met with objection, however, because while it represented a reduction in the number of multimember districts, it still included 32 such districts with numbered posts and still the majority vote requirement. The General Assembly did not pass through another plan, and state officials began arguing that Section 5 review of

³⁵ Norman to Bolton, March 3, 1972.

³⁶ David L. Normal, Assistant Attorney General for Civil Rights, to Arthur K. Bolton, February 11, 1972; Bullock, “The History of Redistricting in Georgia,” *Georgia Law Review*, pp. 1065-66.

reapportionment was unconstitutional. This prompted the Attorney General to file suit. The Supreme Court in *Georgia v. United States* insisted that Section 5 did indeed cover reapportionment, and the state was forced to adopt a third plan for the House in 1974. That plan, which included 24 majority-Black districts, was finally precleared. In elections that fall, 19 Black candidates were elected to the House and 2 to the Senate. The Georgia Legislative Black Caucus was formally organized the following year.³⁷

d. Section 2 and 14th/15th Amendment Litigation in the 1970s

Numerous counties and municipalities by the mid-1970s were either operating under at-large election schemes that had been adopted prior to the passage of the VRA or had enacted such plans after passage and had simply not complied with Section 5. According to the historian Stephen Tuck, the prevalence of these schemes “brought into sharp relief the failure of biracial politics after the Voting Rights Act.” According to Tuck, the reemergence of the Republican Party in the 1960s, “the removal of the county-unit system, and the emergence of genuine two-party elections, voting coalitions in Georgia underwent a radical shift to the detriment of black influence.” But Section 2 and constitutional challenges to dilutive schemes did afford Black voters an opportunity, particularly in some rural areas and cities outside of the capitol, for success.³⁸

After the Supreme Court invalidated a dilutive at-large scheme in 1973 Texas, in *White v. Register*, citing the Equal Protection Clause of the 14th Amendment, a flurry of suits were filed against counties and municipalities in Georgia citing the 14th Amendment and/or Section 2 of the VRA. Dozens of government entities were compelled to adopt single-member district plans for county commissions, city councils, and boards of education as a result of that litigation.³⁹

Twenty-five counties were sued for using dilutive at-large schemes for election of their county commissions. That figure included several counties among the challenged districts in this case – Fulton (1974), Walton (1975), Morgan (1976),

³⁷ *Georgia v. United States*, 411 U.S. 526 (1973); Holmes, “The Georgia Legislative Black Caucus,” 771-3; McDonald, *Voting Rights Odyssey* pp. 148-49; Bullock, “The History of Redistricting in Georgia,” *Georgia Law Review*, pp. 1066-67.

³⁸ Stephen G. Tuck, *Beyond Atlanta: The Struggle for Racial Equality in Georgia, 1940-1980* (Athens: University of Georgia Press, 2001), pp. 218-221; Numan Bartley, *The New South: 1945-1980* (Baton Rouge: Louisiana State University Press, 1996), pp. 388-93.

³⁹ *White v. Register*, 412 U.S. 755 (1973); Kousser, *Colorblind Injustice*, pp. 335-36; McDonald, *Voting Rights Odyssey*, pp. 157-59.

Richmond (1978), and Henry (1979). Each of those counties agreed to adopt single-member district plans as a result. Newton agreed to submit a Section 5 plea under threat of litigation and failed to obtain preclearance, prompting the county to switch to single-member districts. County boards of education were also targeted with VRA suits, including Morgan (1975) and Henry (1979). Newton agreed to adopt its county commission districts for its school board. Numerous cities were also faced with lawsuits under Section 2. Here as well, municipalities in areas where plaintiffs in this case are challenging the current plans were among those challenged in the 1970s, including Albany and Macon (1974), Madison (1976), and Covington (1977). Fourteen cities ended up switching to single-member district elections as a result of the litigation.⁴⁰

More often than not, these governmental entities opted to settle, though some went to trial, allowing the courts to document the stifling history of discrimination in Georgia and its ongoing effect at that time. The Fulton County case is illustrative. The federal trial court in *Pitt v. Busbee* conducted an inquiry consistent with *White v. Regester* and the en banc decision of the Fifth Circuit Court of Appeals in *Zimmer v. McKeithen*, concluded, “Although the present climate in Fulton County presents only minimal political barriers to black registration, the Fulton County government has never become equally open to participation by black and white members of the community” (135 F. Supp. 35, 40, N.D. Ga., 1975).⁴¹

Likewise, the court in *Pitt v. Busbee* found that, although there was no direct evidence of discriminatory intent in the General Assembly’s enactment of the relevant statute, “the effect of the voting procedures embodied in that Act has been to grossly minimize the possibility of blacks fully participating in their county government and particularly in the election of county commissioners of their choice” (at 40-41). It also found that, not only had “no member of the minority group ever been elected to the county commission under the 1952 Act,” but the White members of the commission had “in general unresponsive in a number of ways to the needs of the black community, most notably by their continuing effort to contain low-income housing within the predominantly black neighborhoods of the City of Atlanta” (41). The county’s at-large scheme furthermore included numbered posts and the majority vote requirement. The court deemed the Act that produced the at-large system unconstitutional.

⁴⁰ McDonald, *Voting Rights Odyssey*, pp. 158-61.

⁴¹ *Zimmer v. McKeithen*, 485 F.2d 1297 (5th CCA, 1973).

The U.S. Supreme Court announced a much more stringent standard in such cases when it decided *City of Mobile v. Bolden* in 1980, holding that plaintiffs must prove discriminatory intent, rather than relying on evidence of a likely discriminatory effect (446 U.S. 55). When it extended the VRA in 1982, however, Congress amended the legislation to include the discriminatory effect standard. During the hearings surrounded the extension and amendment, the Senate judiciary Committee published a report in which it used pre-*Mobile* jurisprudence, namely *White* and *Zimmer*, to enumerate certain factors that courts might consider in investigating Section 2 violation claims. These “Senate Factors” were in turn adopted by the Supreme Court in *Thornburg v. Gingles* (478 U.S. 30, 1986).⁴²

e. Redistricting in the 1980s – *Busbee v. Smith*

When the Georgia General Assembly submitted Acts 3, 4, and 5 to the Justice Department for preclearance, the latter initially requested more information, upon receipt of which it concluded that, for the most part, the state House and Senate plans were acceptable. This was a disappointment for the Legislative Black Caucus and Republicans who had worked together on mutually beneficial plans for the legislative districts and had asked the CRD to reject the plan ultimately passed by White Democrats. The CRD did express at least lingering “concerns” regarding the approved legislative plans. In the Senate plan, those concerns involved districts 42 and 43 in DeKalb County and 22 in Richmond County. The proposed plan reduced the Black population in District 43 from 69 percent to 45 percent, and it created an adjacent District 42 which was to be 65 percent Black population but only 45 percent Black registered voters. The upshot for the CRD was that this would make it “more difficult for the minority community of DeKalb County to elect a candidate of its choice to the Senate.”⁴³

Regarding District 22 in Richmond County, the CRD noted that not only did the proposed plan reduce the Black population of 22 from 50 percent Black to 48 percent Black, but lawmakers chose to reject the plan put forth by the Chairman of the Senate Reapportionment Committee, which would have established a District 22

⁴² Report of the Committee on the Judiciary on S. 1992 (Voting Rights Act Extension), United States Senate, 97th Congress, 2nd Session, Report No. 97-417; Peyton McCrary, “History in the Courts: The Significance of *City of Mobile v. Bolden*,” in Chandler Davidson (Ed.), *Minority Vote Dilution* (Washington, D.C.: Howard University Press, 1984), pp. 47-65.

⁴³ Wm. Bradford Reynolds, Assistant Attorney General, Civil Rights Division, to Hon. Michael Bowers, Feb. 11, 1982, p.2, Civil Rights Division Section 5 Objection Letters; Bullock, “The History of Redistricting in Georgia,” *Georgia Law Review*, pp. 1069-70.

with 55 percent Black population. The state insisted that its motivation in drawing 22 in the manner that it had was keeping whole the City of Augusta (which at 53 percent Black had just elected a Black mayor for the first time). The objection letter noted that the city was kept whole in the Chairman's 55 percent plan for District 22. The conclusion was that the proposed plan might "have a detrimental effect on black voting strength."⁴⁴

The CRD's concerns regarding the state House plan involved Dougherty County, which had seen a significant increase in Black population in the preceding decade. In the existing plan, Districts 131, 132, 133, and 134 had Black populations, respectively, of 13.5, 80.4, 50.8, and 25 percent Black. In the proposed plan, the corresponding districts would be 73.5, 10.5, 39.1, and 45.9 percent Black. The division concluded that this was "impermissible retrogression" in Black voting opportunity, particularly insofar as the state had provided "no justification" for the fragmentation. The Black Caucus and Republicans saw some gains under the plans that were ultimately passed and approved.⁴⁵

Act 5 passed by the General Assembly in 1981 provided for the state's Congressional redistricting plan. The AG objected to this plan on the basis of the splitting of what it deemed to be a cohesive Black community in Fulton and DeKalb Counties between CDs 4 and 5. On one hand, the new plan would increase the Black population of CD 5 by 7 percentage points, to 57.3, though by the state's own admission CD 5 contained 54 percent White registered voters because the Black community therein was "less politically active" than elsewhere. On the other hand, the General Assembly had failed to pass the Senate's congressional plan (which had been proffered by then Senator Julian Bond), which included the entire Black community in Fulton and DeKalb in one CD 5, which had a Black population of 69 percent.

Andrew Young had won election three times in a CD 5 with a slight White majority, but Wyche Fowler had defeated John Lewis in the special election held when Young became the U.S. Ambassador to the United Nations, and he had won reelection twice. Bond had made a tacit agreement with Republican Paul Coverdell whereby the General Assembly would increase the Black population in CD to a majority by taking Black population from CD 4, giving a Republican a better chance

⁴⁴ Reynolds to Bowers, Feb. 11, 1982, pp. 2-3.

⁴⁵ Reynolds to Bowers, Feb. 11, 1982, pp. 3; Bullock, "The History of Redistricting in Georgia," *Georgia Law Review*, p. 1070.

to win back that seat, then held by Democrat Elliot Levitas but held, before Levitas, by Republican Benjamin Butler. Bond had also agreed with the Majority Leader Tom Allgood to lower the Black population in Allgood Senate district if he would support Bond's plan to draw a 69 percent Black CD 5. The Legislative Black Caucus had put forth plans that had CD 5 even higher in Black population. Ultimately, the plan that came out of conference committee, to bond's displeasure, had CD 5 at 57.3 percent Black.⁴⁶

The rationale provided by the state to the CRD was that the Fulton and DeKalb Black communities were not cohesive socioeconomically and that there was a desire to maintain separate CDs for the two counties. Realistically, Democrats understood that the Republican Coverdell wanted to shed Black population in CD 4. The response from the division, in any case, was that there was significant socioeconomic variation in the Black areas within CD itself and that the proposed plan would split Fulton County by reassigning a large portion of North Fulton from CD 5 to CD 4. It also pointed out that county lines were crossed elsewhere in the Atlanta metropolitan area in the proposed plan. According, the AG determined that the state had not met its burden of proof under Section 5.⁴⁷

The state subsequently filed a declaratory judgment action in the D.C. District Court, arguing that its plan passed the non-retrogression status put forth in *Beer v. United States*.⁴⁸ Attorneys for the CRD and for an intervening group of Black citizens argued that, even if that were the case, the plan approved by the G.A. was the product of intentional discrimination. During discovery and over the course of a 3 day trial that summer, 1982, it was revealed that the most influential member of the General Assembly when it came to redistricting, Representative and chair of the House reapportionment committee Joe Mack Wilson of Marietta, had repeatedly referred to Black people as "niggers," including saying to a Republican reapportionment committee member, "There are some things worse than niggers and that's Republicans" and by referring to bills designed to help Black people as "nigger legislation." The court in *Busbee v. Smith* made the extraordinary, and decidedly succinct, determination, "Representative Joe Mack Wilson is a racist."⁴⁹ The court further noted that Wilson had been appointed to his committee chairmanship by

⁴⁶ Bullock, "The History of Redistricting in Georgia," *Georgia Law Review*, pp. 1067-69.

⁴⁷ Wm. Bradford Reynolds, Assistant Attorney General, Civil Rights Division, to Hon. Michael Bowers, Feb. 11, 1982 (separate letter from previous citations), pp. 2-4.

⁴⁸ *Beer v. United States*, 425 U.S. 130 (1976).

⁴⁹ *Busbee v. Smith*, 549 F.Supp. 494, 500 (D.D.C, 1982), *aff'd* 549 U.S. 1166.

Speaker of the House Thomas Murphy, who had himself served as floor leader for segregationist governor Lester Maddox, who had, in turn, flouted the Civil Rights Act of 1964 by chasing Black customers away from his restaurant with a pickaxe handle and later by closing the restaurant rather than serving Black customers.⁵⁰

Among the other findings of the *Busbee* court were that one of the two Black members of the House reapportionment committee was consider an “Aunt Jane” by Black lawmakers; that Black citizens did not have adequate representation on the House committee; that discriminatory tactics had been “commonly” used in the state and relevant counties in the past; that not only did the House committee ignore the advice of CRD attorneys at a meeting regarding their Section 5 submission, but Rep. Wilson had responded by saying to colleagues, “The Justice Department is trying to make us draw nigger districts and I don’t want to draw nigger districts”; that during public hearings on redistricting no one stated their desire for CD 5 to remain unchanged and that, to the contrary, people testified to their desire that Black communities outside of the existing CD boundaries should be included therein; and that certain leaders, especially Lt. Governor Zell Miller, had prized keeping together one supposedly cohesive group, the so-called mountain counties, an almost exclusive White community of interest, while at the same time decrying the lumping together of demonstrably cohesive Black voters in CD5.⁵¹

The court also found that “Most of the factors which the legislative leadership identified as important” during the process “were disregarded in the final apportionment plan.” For example, Gwinnett County, including the cities of Snellville and Loganville, was split between the 9th and 10th CDs. The 10th was dramatically redrawn, including the loss of constituents for the sitting Rep., despite its not deviating hardly at all from the one-person, one-vote standard. And yet, when it came to inviolability of standards, this was rigorously held to as to the “historical” nature of the split between Fulton and DeKalb, despite public pleas to consider the Black community COI.⁵²

Finally, the *Busbee* court observed, “The discrimination in this case is explicit and implicit.” It held, “The contradictions, illogical justifications and feigned ignorance reflected in testimony at trial indicate an attempt to cover-up the true

⁵⁰ Id.

⁵¹ *Busbee v. Smith*, 548 F.Supp., at 501-2; McDonald et. Al., “Georgia,” in *Quiet Revolution in the South*, pp. 88-89.

⁵² *Busbee v. Smith* at 502-5.

motive of the Georgia General Assembly.” The “purported goals” of maintaining “historical borders,” avoiding county and city splits, and avoiding a Republican 4th CD were “pretexts for discrimination.” Those goals had been ignored, the court found, in the drawing of CD 1, 3, 6, 7, 8, 9, and 10. The ultimate conclusion was that “The Fifth District was drawn to suppress black voting strength in Georgia.”⁵³

A special session of the General Assembly, acting on advice from the CRD, ultimately drew a CD 5 with upwards of 65 percent Black population. Wyche Fowler won reelection anyway, though when he joined the Senate in 1986, John Lewis took his place. By that time, republican Pat Swindall had swung CD 4 back to the Republicans.⁵⁴

f. Section 5 Objections and Section 2 Cases in the 1980s

Before, during, and after *Busbee*, counties and cities throughout the state of Georgia submitted electoral changes to the CRD that met with Section 5 objections. This included DeKalb County, which twice tried to block or limit voter registration drives. The CRD noted in its first rejection to DeKalb, in 1980, that only 24 percent of the Black voting age population in the county was registered, compared to 81 percent of the white population. It also concluded that the county board of registrars’ stated concern that registration drives might be illegal was “without foundation.”⁵⁵ Two years later, when the percentage of Black voting age residents of the county had increased by 12.8 percent (since 1980), and the county attempted to limit voter registration drives to even-numbered years, the CRD concluded that disallowing the drives in odd-numbered years would “substantially reduce the opportunities for Black potential voters to register.” The CRD also found “no justifiable reason” and “no useful purpose” for the county’s insistence that civic groups obtain Section 5 preclearance prior to initiating a voter registration drive.⁵⁶

The CRD objected the same year to the redistricting plan submitted by Dougherty County for its county commission. The AAG concluded that, despite significant Black population growth in the county relative to the White population, the proposed plan decreased the proportion of Black residents in all but one of six

⁵³ Id. 514-15.

⁵⁴ Bullock, “The History of Redistricting in Georgia,” *Georgia Law Review*, pp. 1069-70.

⁵⁵ Drew S. Days, Assistant Attorney General, Civil Rights Division, to Harry E. Schmid, Sept. 11, 1980, Civil Rights Division Section 5 Objection Letters.

⁵⁶ Wm. Bradford Reynolds, Assistant Attorney General, Civil Rights Division, to Norma S. Lyons, March 5, 1982, Civil Rights Division Section 5 Objection Letters.

districts and “seem[ed] unnecessarily to concentrate black citizens in the two districts that are majority black.”⁵⁷ Bibb County’s proposed redistricting plan for its board of education met a similar fate. Despite Black population growth in the county, the plan retrogressed Black voting strength by providing for Black majorities in only two districts. Alternate plans were submitted that would have maintained Black majorities in three districts, but these were rejected, according to the CRD, “apparently for no compelling reason.”⁵⁸

When the City of McDonough submitted a similar plan for its city council in 1982, the CRD noted that while Black residents comprised 37.7 percent of the population, they were concentrated in the southern portion of the city where, when combined with the white population therein, accounted for half of the city’s population. But the city proposed a plan that packed the Black population into one precinct and cracked among two others “with the apparently intended result that black voters . . . will have a meaningful influence on the election of council members in only one of the four single-member precincts, and likely can elect a candidate of their choice to only one of six council seats.”⁵⁹ The City of College Park in the southern Atlanta suburbs submitted a plan that, “in spite of an enormous increase in minority population,” according to the CRD, “appear[ed]” to represent “a conscious effort to maintain effective minority voting strength at the level established in 1976.” The plan did this, according to the division, by packing Black people into one, 90 percent Black district, and cracking them among four other districts. There also did not “appear to be any legitimate reason for the strangely irregular lines that meander[ed] through . . . a highly concentrated black community.”⁶⁰

Similar objections were entered vis-à-vis plans submitted by, among others, the cities of Newnan (packing and cracking city council districts), Griffin (packing and cracking board of commissioners districts), Forsyth (twice: majority vote requirement with numbered posts, and racially selective annexations to maintain white majority), and Macon (racially selective deannexations). The City of August was sued by the Justice Department under Section 2 and forced to adopt a single-

⁵⁷ Wm. Bradford Reynolds, Assistant Attorney General, Civil Rights Division, to C. Nathan Davis, July 12, 1982, Civil Rights Division Section 5 Objection Letters.

⁵⁸ Wm Bradford Reynolds, Assistant Attorney General, Civil Rights Division, to Hon. Arthur Griffin Jr., Nov. 26, 1982, Assistant Attorney General, Civil Rights Division.

⁵⁹ Wm. Bradford Reynolds, Assistant Attorney General, Civil Rights Division, to S.T. Ellis, Nov. 22, 1982, Assistant Attorney General, Civil Rights Division.

⁶⁰ Wm. Bradford Reynolds, Assistant Attorney General, Civil Rights Division, to George E. Glaze, Dec. 12, 1983, Assistant Attorney General, Civil Rights Division.

member district plan for its city council that afforded Black voters a chance to elect candidates of choice to 6 of 13 seats. The city subsequently attempted to consolidate with Richmond County and adopt a consolidated plan that would have retrogressed Black voters' relative strength. The CRD in rejecting the change noted that the court in the Section 2 case had found racial discrimination in the electoral process in both the city and the county and that the AG had registered several Section 5 objections to proposed changes therein, including the initial date set for the referendum on the consolidation.⁶¹

In the 1980s, the Justice department entered a total of 47 Section 5 objections to changes submitted by either the state of Georgia or its counties or municipalities. Seven of these were partially or wholly withdrawn. In addition, between the amendment of the VRA in 1982 and the end of the decade, private plaintiffs and the United States sued 26 counties and 26 cities under Section 2 for their continued use of at-large election schemes for city and county councils or commissions. An additional 13 counties were sued over their use of at-large elections for their boards of education. In virtually every one of these cases, district systems were adopted either by court order or by settlement.⁶²

g. Redistricting in the 1990s – Shaw and Miller

Following the 1990 Census, Georgia gained a seat in the U.S. House. In previous redistricting cycles, one could have safely assumed that this would mean the creation of a new majority White congressional district. But the state had seen the CRD object to each one of its submitted plans under Section 2 during those previous redistricting cycles. The General Assembly had also been embarrassed by the findings of the court in the *Busbee* litigation a decade prior. It had, for the first time, adopted guidelines that directed the GA to avoid minority vote dilution and to comply with the VRA. And finally, the Black Caucus had come to include 34 members, which, while falling well short of proportionality, certainly afforded Black legislators some kind of voice in the process. Some sought to continue working with Republicans, who offered support for increasing the number of majority Black districts, such that, on their end, adjacent districts could be “bleacher,” or made more White and thus more accessible to Republican victories. The plan passed out of a

⁶¹ Civil Rights Division Section 5 Objection Letters, esp. James P. Turner, Assistant Attorney General, Civil Rights Division, to Linda W. Beazley, May 30, 1989; *United States v. City of Augusta*, Civ. Act. No. 187-004 (S.D. Ga, 1987).

⁶² Civil Rights Division Section 5 Objection Letters; McDonald, *Voting Rights Odyssey*, pp. 182-84.

summer, 1991 special session would have created two majority Black CDs – 5 and 11 (the Black Caucus had called for three). The GA also passed new plans for the state House and the Senate, using all single member districts for the first time.⁶³

All three plans were submitted to the CRD, and the AG registered objection to all of them. Regarding the Congressional plan, the CRD argued that lawmakers were “predisposed” to limit the number of majority Black districts to two and that they did not “make a good faith attempt to recognize the concentrations of black voters in the southwest” corner of the state, nor to include the Black population of Baldwin County in the new CD 11. It noted that a plan had been submitted to the GA, by the ACLU, that provided for three majority Black districts, and argued that the state had not met its burden of explaining why it rejected said plan. In objecting to the state House plan, the CRD observed that, “Alternatives which avoided unnecessary retrogression, and which recognized minority voting potential by drawing additional viable black majority districts,” had been rejected “in what appears to be an effort to accommodate incumbent legislators at the expense of black voters.” Concerning the Senate plan, the CRD found that it “likewise include[ed] instances in which the concerns of the incumbents were placed ahead of black voting potential.”⁶⁴

Following the objections, the state Senate passed a plan that included three majority Black districts – CDs 5, 11, and 2. The House rejected this plan, and the GA eventually came together on a second adopted plan that included two majority Black districts with a slight increase in Black voters in CDs 11 and 2 from the first plan passed through the GA. The CRD rejected this plan as well, citing again “predisposition” to limit the number of majority Black CDs and citing, this time, the Senate’s passage of an alternative with three majority Black CDs. Similarly, the CRD objected to the GA’s second attempts to enact state House and Senate plans, citing again the “fragmentation” of Black communities and apparent deliberate maintenance of majority white districts. Regarding the Senate plan, the CRD cited the state’s “failing to combine the black growth communities in Clayton County with the residents of the black neighborhoods in DeKalb” as a factor in ‘minimizing’

⁶³ Bullock, "The History of Redistricting in Georgia," *Georgia Law Review*, pp. 1070-72; McDonald, *A Voting Rights Odyssey*, pp. 211-213.

⁶⁴ John R. Dunne, Assistant Attorney General, Civil Rights Division, to Mark H. Cohen, Jan. 21, 1992, Civil Rights Division Section 5 Objection Letters.

Black voting strength in DeKalb, where more “logical” boundaries had been avoided.⁶⁵

The GA came back and passed a third set of plans in the spring of 1992. All three plans were precleared. The Congressional plan was similar to the one previously passed by the Senate but rejected by the House and contained three majority Black CDs. The new state legislative plans produced 13 majority Black Senate districts and 41 majority Black House districts, increases of 5 and 11, respectively from the existing plans.⁶⁶

Despite preclearance, all three plans were subject to legal challenges arising from the Supreme Court’s decision in *Shaw v. Reno* in 1993. In *Shaw*, White plaintiffs put forth a gerrymandering theory in which they asserted that race had unconstitutionally predominated in the development of a newly-drawn majority Black congressional district (in North Carolina) that was irregular in shape. The Court ruled in plaintiffs’ favor, holding that the Justice Department’s demands, as put forth in Section 5 objections, were beyond the scope of the VRA and were the result, instead, of a “Max Black” policy pursued by organizations like the ACLU, who had exercised undue influence on DOJ.⁶⁷

The result in Georgia was the filing of *Johnson v. Miller*. Plaintiffs initially challenged the 11th Congressional District, arguing that it was “segregated” and set up a “predetermined outcome” of the subsequent election because it had deliberately been drawn as majority Black. The trial court found in plaintiffs’ favor, holding that the boundaries of CD 11 were “dramatically irregular” and blatantly manipulated along racial lines to satisfy the “Max Black” pursuits of the ACLU and the CRD.⁶⁸

The Supreme Court upheld the decision in a 5-4 ruling, finding that the GA had subordinated traditional redistricting principles to race absent a compelling state interest, which the DOJ’s policy, according to the Court, was not. The case was remanded to allow the GA to attempt to pass through another plan, at which point the plaintiffs enlarged their claim to include CD 2, which the court ruled had also been unconstitutionally drawn. By this time, it was the summer of 1995, and the GA

⁶⁵ Dunne to Cohen, March 20, 1992, Civil Rights Division Section 5 Objection Letters.

⁶⁶ Bullock, “The History of Redistricting in Georgia,” *Georgia Law Review*, pp. 1070-77.

⁶⁷ *Id.* pp. 1075-77; McDonald, *Voting Rights Odyssey*, pp. 212-13.

⁶⁸ *Johnson v. Miller*, 864 F.Supp. 1354 (S.D. Ga. 1994); Bullock, “The History of Redistricting in Georgia,” *Georgia Law Review*, pp. 1070-77. Republicans and some rogue LBC members used their own computers and software to run maps that might be mutually beneficial, and a floppy disk was circulated at one point with the file name MAXBLACK.

proved unable to pass a plan to meet the courts' mandates. The trial court thus drew its own plan containing but one majority Black CD 5 and representing a significant rearrangement of the state's districts in general.⁶⁹

Black plaintiffs challenged the court-drawn plan, but the Supreme Court held that the "pressure" from DOJ under the specter of "Max Black" tainted the GA's passage of its previously adopted plans. The Court also noted that Black incumbent Representatives Cynthia McKinney and Sanford Bishop had been reelected under the court-drawn plan.⁷⁰

The *Johnson* plaintiffs, meanwhile, also challenged the state legislative plans adopted by the GA. The Assembly had replaced its third state legislative plan with a fourth, enacted after the 1995 special session that followed the *Miller v. Johnson* decision, and it had already reduced the number of majority Black districts in the House and Senate, by 11 and 2, respectively. Plaintiffs in *Johnson* nonetheless filed a *Shaw* challenge to both. Mediation resulted in a settlement whereby a further 3 majority-Black House districts and 1 majority-Black Senate district were reduced to majority-White. By the end of the decade, the membership in the Black Caucus stood at 44, ten higher than it had been entering the decade.⁷¹

h. Redistricting in the 2000s – a New State of Play, *Georgia v. Ashcroft*

Tectonic political shifting came to the surface in redistricting in Georgia in the 2000s. White flight from the Democratic to the Republican Party had been occurring since the New Deal and had accelerated after World War II with the Dixiecrat movement, in the 1960s following passage of the Civil and Voting Rights Acts, in the 1970s amid compulsory assignment school desegregation, and in the 1980s and 90s with enforcement of the Voting Rights Act. By the mid-1990s a White, Sunbelt-oriented conservatism had taken hold in Georgia, especially in the northern Atlanta suburbs. The face of that movement at that moment, in Georgia and nationally, was Congressman Newt Gingrich.⁷²

Gingrich routinely touted the values of his home Cobb County, an affluent white flight destination, as hard-working and entrepreneurial, while at the same time

⁶⁹ *Miller v. Johnson*, 515 U.S. 900 (1995).

⁷⁰ *Abrams v. Johnson*, 521 U.S. 74 (1997).

⁷¹ Bullock, "The History of Redistricting in Georgia," *Georgia Law Review*, pp. 1077-79; McDonald, *Voting Rights Odyssey*, pp. 224-26.

⁷² Kevin Kruse, *White Flight: Atlanta and the Making of Modern Conservatism* (Princeton: Princeton University Press, 2005), pp. 260-63.

deriding the “welfare state” values of then majority-Black Atlanta. Cobb was a place where “upper-middle class” people moved to avoid crime and “keep their lawn cut.” The threat was the “bus line” [referring to a potential expansion of Atlanta’s MARTA rapid transit service], which would “gradually destroy one apartment complex after another, bringing people out of public housing who have no middle class values and whose kids as they become teenagers often are centers of robbery and where” he continued, “the schools collapse because the parents who live in the apartment complex don’t care that the kids don’t do well in school and the whole school collapses.”⁷³

Gingrich’s colormasked rhetoric was a thinly veiled way of arguing that Black people who were mired in poverty and living in crime-ridden neighborhoods with “failing” schools were there because they, as a race, lacked the values that worthy White people had. It also represented an argument that White people who fled to places like Cobb did so in order to exercise their “freedom of association,” that is, their constitutional right to live with, and go to school with, and pay taxes to support, and to elect, people of their own choosing, even if the nature of the choosing turned on race.⁷⁴

At that moment, the GOP was in the process of wresting control of politics in Georgia from the Democratic Party. The Republicans had captured the majority in the state’s congressional delegation in 1995. They came close to taking control of the state Senate in elections in 2000. Places like Cobb, where Republicans performed well, were rapidly growing. Areas where White Democrats did well were not. Members of the Legislative Black Caucus declined to repeat their previous strategy of working with Republicans on redistricting for mutual benefit, having realized that the GOP might well build on its gains to take control of the state chambers, leaving Black members in a more tenuous position. Paul Coverdell had already achieved breakthrough for the GOP Congress, winning the Senate seat held by Wyche Fowler in 1992. Following that victory, Republicans took every U.S. House seat not held by a Black member.⁷⁵ This was the milieu when Census figures were published for the 2000 Census and the redistricting process began.⁷⁶

⁷³ Kruse, *White Flight*, pp. 261-62; Merle and Earle Black, *The Rise of Southern Republicans* (New York: Belknap, Harvard, 2002), pp. 5-7.

⁷⁴ Kruse, *White Flight*, pp. 9, 247, 259.

⁷⁵ Nathan Deal switched parties.

⁷⁶ Black and Black, *Rise of Southern Republicans*, pp. 297-302; *Larios v. Cox*, 300 F. Supp. 2d 1320, 1323 (N.D. Ga. 2004).

During two special sessions in August and September of 2001, the Democratic leadership sought to retain majorities, in part, by taking Black population from districts in which Black candidates would probably be reelected anyway and redistributing it to districts wherein White Democrats might benefit from that population in defeating Republican candidates. The use of new software, Maptitude, allowed lawmakers and staff to analyze draft plans in real time for political performance and population deviation. In the Senate plan approved by the GA, four districts were taken below the threshold of Black majority. Several others saw the number of Black voters significantly reduced. The number of majority Black districts in the approved House plan went from 42 to 31. Both maps split numerous counties, even smaller ones that had been kept whole in previous plans, and they paired incumbent Republican members together. The GA used multimember districts in state legislative districts for the first time in 20 years. In the congressional plan, the 13th CD (Georgia had gained 2 more seats in the U.S. House) was so irregularly shaped that it resembled, according to some, a “dead cat” laying in the road.⁷⁷

Democratic lawmakers were able to hold onto the House and Senate, despite losing the statewide popular vote in both cases, though they lost the Senate when four Senators defected to the Republicans. The latter won the governor’s mansion, as Sonny Perdue defeated incumbent Roy Barnes to become the first Republican to hold the office since Reconstruction. Democrats picked up two congressional seats, with one of those being David Scott, a Black candidate, in the newly drawn 13th.⁷⁸

The state submitted its plans to the District Court for the District of Columbia for a declaratory judgment under Section 5 rather than to the CRD, though the latter was able to weigh-in at the hearing. At the same time, a group of Republicans challenged all three plans in the District Court for the Northern District of Georgia, bringing myriad claims. In the D.C. trial court proceedings, the CRD counseled approval of the Congressional and state House plans but expressed concerns about three Senate districts (3, 12, and 26) that had been majority Black but were reduced to under 50 percent Black under the proposed plan. The trial court took heed and approved the House and congressional plans but not the Senate plan. The state

⁷⁷ Larios v. Cox, 300 F. Supp. 2d 1320, 1323-4 (N.D. Ga. 2004); Bulloch, “The History of Redistricting in Georgia,” *Georgia Law Review*, pp. 1086-1088.

⁷⁸ Bulloch, “The History of Redistricting in Georgia,” *Georgia Law Review*, pp. 1088-89.

appealed, and four Black appellees intervened, challenging two additional Senate districts (15 and 22).⁷⁹

The Supreme Court reversed the trial court judgment on the Senate plan. In the 5-4 majority opinion, Justice O'Connor argued that the lower court did not consider all of the "relevant factors" and focused too narrowly on the challenged districts. Viewing the plan as a whole, and citing to *Gingles*, the Court determined that states could maximize minority voting strength in more than one way, with one of those ways being the creation of a larger number of "influence districts," wherein a minority candidate of choice would have a very good, if not necessarily great, chance to get elected, than the number of safe, majority Black districts wherein the chances would be somewhat better. The Court also noted that all but two Black legislators voted for the plan. Accordingly, it judged the plan to be nonretrogressive and thus acceptable under Section 5.⁸⁰

In the Republican challenge, the trial court dismissed most of the claims and stayed one of them – racial gerrymandering – pending the outcome of the *Ashcroft* proceedings. The challenges that came to trial in January 2004 were a one-person, one-vote claim under the Equal Protection clause aimed at both state legislative plans, and an Article 1 § 2/'time, place, and manner' claim against the congressional plan that likewise cited population deviation. The three-judge court in *Larios v. Cox* unanimously held that the state legislative plans "plainly violate[d]" the one-person, one-vote principle, as lawmakers had systematically underpopulated Democratic-leaning and incumbent districts in South Georgia and in "inner-city" Atlanta while also overpopulating suburban areas in northern metropolitan Atlanta that were thought to lean Republican (300 F. Supp. 2d 1320, 1322, N.D. Ga. 2004). The total population deviation was found to be 9.98 percent. The Court denied the claim against the congressional map, citing "legitimate state interests," like avoiding split precincts, as justification for the relatively small population deviations in the plan (*Id.*). The Supreme Court affirmed the decision later that year.⁸¹

When the General Assembly convened to pass another round of plans, the Senate – controlled by Republicans – was able to do its job, but the Democratic leadership in the House failed to pass the Senate plan or a plan of its own. This prompted the *Larios* court to appoint a Special Master – retired appellate court judge

⁷⁹ *Georgia v. Ashcroft*, 195 F. Supp. 2d 25 (D.D.C. 2002).

⁸⁰ *Georgia v. Ashcroft*, 539 U.S. 461, 463-64 (2003).

⁸¹ *Cox v. Larios*, 542 U.S. 947 (2004).

Joseph Hackett, a Black man from south Florida – who himself retained a redistricting expert, a law professor from Pennsylvania. The maps they produced prioritized reducing the population deviation that had doomed the plan in *Larios*. The result was the pairing of a large number of incumbents from both parties, in the same districts. Half of the chamber’s Black members found themselves paired (or even with two other incumbents). The court allowed some relief in the form of separating out those incumbents when there was an open seat in an adjacent district. But in the final plan, eight incumbent senators and sixteen incumbent representatives were paired. When elections were held, Republicans took control of the House for the first time since Reconstruction and gained four seats in the Senate. Black Democrats gained one seat in each chamber.⁸²

Republican leaders were able to control congressional redistricting with a focus on shoring up the districts they had, trying to unseat White Democrat Jim Marshall, who had taken the Third, and John Barrow, who had taken the Twelfth, by reducing the number of Black voters in their districts (and in Barrow’s case, by drawing him out of his district).⁸³

i. Section 5 Objections and Section 2 Litigation in the 2000s

State and local officials continued to submit electoral changes to the Justice Department in the 2000s that met with objections under Section 5. The City of Albany, for example, submitted a redistricting plan for its city council in 2001 but failed to receive preclearance because the CRD concluded that the plan appeared to be the product of discriminatory intent. Under an *Arlington Heights* analysis, the CRD found that a reduction of Black population in the city’s Ward 4, which was not malapportioned and thus not in need of significant adjustment, was designed to maintain two majority white wards amid steady white flight and Black population growth in the city.⁸⁴

In particular, the CRD concluded, “The historical background of past redistricting indicates an intent to maintain Ward 4 as a district that remains at the level of 70 percent white, thus eliminating any ability of black voters to elect a candidate of choice in this district.” The Black population of Ward 4 had steadily increased, and in the previous two decades, the city had moved some of that

⁸² Bullock, “The History of Redistricting in Georgia,” *Georgia Law Review*, pp. 1093-94.

⁸³ *Id.*, 1094-95.

⁸⁴ J. Michael Wiggins, Acting Assistant Attorney General, to Al Grieshaber Jr., Sept. 23, 2002, Civil Rights Division Section 5 Objection Letters.

population out into other wards in order to maintain a significant White majority. In this cycle, the Black population had grown to 51 percent in Ward 4, and the city sought to move much of that population into another ward that was already 90 percent Black. The CRD noted that the city's redistricting criteria was to "maintain ethnic ratios (four majority black districts) The proposed plan does maintain four black districts, but implicit in that criterion is an intent to limit black political strength in the city to no more than four districts, even though Ward 4 had become majority black and demographic trends indicate that its strength will continue to increase in the future." And finally, it concluded that "The reasons offered by the city for the reductions in the black population in Ward 4 do not withstand scrutiny" and thus, the "facts indicate that the city has fallen short of demonstrating that the change in Ward 4 was not motivated by an intent to retrogress."⁸⁵

Eight other counties or municipalities received similar objections to proposed changes in the 2000s. The State of Georgia also received two objections. The first involved the state's voter registration verification system and, though it came in 2008, traced its origins to the very beginning of the decade. In 2000, private plaintiffs in Walton and Gwinnett counties filed a complaint challenging the state's requirement that potential voters supply their full nine-digit Social Security number in order to register after their applications were denied for failure to provide the full SSN. Plaintiffs argued that such request was a violation of the federal Privacy Act of 1974. The District Court initially granted summary judgment to the state but was reversed by the 11th Circuit Court of Appeals. On remand in 2005, the court in *Schwier v. Cox* granted summary judgment for the plaintiffs and ordered the state to expressly inform voters that they were not required to provide the full SSN in order to register to vote.⁸⁶

The *Schwier* court approved a consent decree wherein the state agreed to adopt a system as set forth in the federal Help America Vote Act (HAVA) and to request from voter applicants a drivers' license number or the last four digits of a SSN. HAVA required states to maintain a digital statewide voter registration database, though it did not indicate that full SSNs should be provided, nor was it intended as a voter eligibility verification system. In early 2007, the state began collecting information from the state Department of Driver Services [DDS] and the Social Security Administration, and it began providing to county officials a list of persons, not only new applicants but also existing registered voters, who were flagged as

⁸⁵ AAAG Wiggins to Grieshaber, Sept. 23, 2002.

⁸⁶ *Schwier v. Cox*, 412 F.2d 1266 (N.D. Ga. 2005), *aff'd*, 439 F.3d 1285 (11th CCA 2006)

potentially ineligible based on, inter alia, non-citizenship. Local officials were instructed to notify those individuals, who were given a three-day window of time to provide additional information, at the courthouse during normal business hours, proving their eligibility.

None of those changes were submitted to the Justice Department for Section 5 preclearance. Prior to the 2008 elections, plaintiffs, represented by the Mexican American Legal Defense and Education Fund [MALDEF], the ACLU, and the Lawyers Committee for Civil Rights under Law, filed suit alleging that the matching system was flawed and incorrectly flagged thousands of eligible voters and that it was illegally implemented on account of the Secretary of State's failure to submit the changes for Section 5 preclearance. When the changes were subsequently submitted, a Justice Department inquiry and analysis found that the state's system did "not produce accurate or reliable information" and that use of the system had been "error-laden and possibly improper." The "most telling" findings, according to the CRD, was the grossly disproportionate effect the system had vis-à-vis naturalized citizens and that more than half of the 7,007 individuals flagged as potential non-citizens were indeed citizens. The CRD concluded, "the impact of these errors falls disproportionately on minority voters and that "applicants who are Hispanic, Asian or African American are more likely than white applicants, to statistically significant degrees, to be flagged for additional scrutiny." The court in *Morales v. Handel* entered a preliminary injunction requiring the state to allow flagged individuals to vote in the elections that fall, and the CRD denied preclearance.⁸⁷

While the *Schiel* litigation was pending, and just prior to the state's adoption of the citizenship verification system, the Department of Justice brought a Section 2 complaint against Long County, Georgia, whose Latinx population had increased 460 percent since 1990. County officials in Long County, upon receipt of challenges from local electoral candidates, required 45 "Hispanic or Spanish-surnamed voters" to attend a hearing and prove their citizenship. The CRD contended that the county officials "abridged the rights of Hispanic voters by requiring Hispanic voters who were challenged to prove their citizenship in order to vote, even though [they] were aware that the challenges were not supported by any credible evidence calling into question the citizenship of the challenged voters," and that they "also imposed

⁸⁷ *Morales v. Handel*, Cv. Ac. No. 1:08-CV-3172-JTC (N.D. Ga., Oct.27, 2008); Loretta King, Acting Assistant Attorney General, Civil Rights Division, to Hon. Thurbert E. Baker, May 29, 2009, Civil Rights Division Section 5 Objection Letters; MALDEF Press Release, "Morales v. Georgia Secretary of State Karen Handel," Nov. 4, 2008.

separate and distinct procedures for these Hispanic challenged voters than for non-Hispanic voters challenged on other bases.” In February 2006, the court hearing the case approved a consent decree whereby the county agreed to notify the Latinx citizens that there was no evidence submitted to support the claims against them and that they were free to vote; to respond to future complaints in a nondiscriminatory fashion; and to educate election officials and poll workers on federal law.⁸⁸

j. Redistricting in the 2010s and Recent Challenges

By 2010, the Republican Party had 36 of the 56 seats in the Senate, 113 of the 180 seats in the House, and 8 of the 13 seats in the congressional delegation. Within a year’s time, no Democrats would hold statewide office; this meant, also, that no Black candidate held statewide office either. The two parties had become polarized by race. There were no Black elected officials in the Republican party, either statewide or in the General Assembly. There were (and are) some White Democrats, though these candidates tend to come from the urban and suburban areas of the state that represent a shift away from the old good-ole-boy Democratic base anchored in the defunct county unit system. The GOP, for its part, has sought to build on its unprecedented success by obtaining super-majorities in the GA, meaning control of 2/3 of the seats in either chamber or, perhaps, both.⁸⁹

The Republican-drawn congressional map in 2012 raised the number of registered Black voters in the four districts with Black incumbents above 50 percent for the first time. The state House map represented an increase in the same in six districts, while the Senate provided for three such increases. While this could be interpreted as a means of avoiding retrogression under Section 5, it also allowed Republicans to again “bleach” adjacent districts, by giving them large White majorities that would guarantee GOP victories in those districts.⁹⁰

This was a strategy pursued by Republicans in other southern states where they had emerged newly ascendant. The lone remaining white Democrat in Georgia,

⁸⁸ United States v. Long County, Case No. CV206-040 (S.D. Ga. 2006), Consent Decree, February 10, 2006; Complaint in United States v. Long County, supra, Feb. 8, 2006; both in Cases Raising Claims Under Section 2 Of The Voting Rights Act, U.S. Department of Justice, Civil Rights Division, online at <https://www.justice.gov/crt/cases-raising-claims-under-section-2-voting-rights-act-0> [Hereinafter Civil Rights Division Section Two Claims].

⁸⁹ The Supreme Court decision limiting Section 5 preclearance review is *Reno v. Bossier Parish School Bd.*, 528 U.S. 320 (2000), aka *Bossier II*; Bullock, “The History of Redistricting in Georgia,” *Georgia Law Review*, pp. 1093-95.

⁹⁰ Bullock, “The History of Redistricting in Georgia,” *Georgia Law Review*, pp. 1095-96.

John Barrow, saw Black voting population from Savannah replaced in his district with the White suburbs of Augusta, where he moved in order to seek reelection. Then-House Minority Leader Stacy Abrams argued that the new maps destroyed any remaining coalition districts and amounted to “a resegregation of Georgia into a party of white Republicans and black Democrats, leaving Latinos and Asians to fend for themselves.” The plans were all three cleared by the Justice Department under Section 5, the standard of which had become one of retrogression only.⁹¹

In the 2012 elections, Republicans gained two Senate seats, giving them the super-majority, though they would lose this in 2016. They came within one seat of gaining the super-majority in the state House. Black candidates added five seats in the state House and stood pat in the Senate and congressional delegation. By that time, 13 of the 18 Democrats in the Senate and 47 out of 60 members were Black. Barrow was finally defeated, making Georgia’s Democratic contingent in Congress all-Black until the election of Carolyn Bordeaux in 2020.⁹²

In December of 2012, the Civil Rights Division registered its final objection to a Georgia electoral change. Augusta and Richmond County sought to merge into a single local government, but the CRD concluded, using an *Arlington Heights* framework, “Where the purported nondiscriminatory reasons for the change appear pretextual, and where the effect of the change would be to disproportionately reduce turnout among black voters, we cannot conclude that the legislation’s purpose was not to depress black voter participation.” It continued, “The historical context in which we review the proposed change is also illustrative. This is not the first instance in which the Department has reviewed the effect of a July election in Augusta-Richmond and concluded that it did not pass scrutiny under Section 5. In 1988, the City of Augusta and Richmond County sought to hold the referendum election on consolidation in July. On July 15, 1988, the Attorney General concluded that an election at that time would have a disparate impact on minority voter participation, resulting in a retrogressive effect on minority voting strength.”⁹³

In 2015, after *Shelby County v. Holder* ended the preclearance requirement, the General Assembly passed a redistricting plan for its House of Representatives. Plaintiffs sued the state, seeking a preliminary injunction on the basis of racially

⁹¹ Id., 1096.

⁹² Id., 1096-1100.

⁹³ Assistant Attorney General Thomas Perez to Mr. Dennis R. Dunn, Dec. 21, 2012, Civil Rights Division Section 5 Objection Letters.

gerrymandering HDs 105 (Gwinnett) and 111 (Henry). Though the court declined to enter the preliminary injunction, it noted that staff in the Assembly's Legislative and Congressional Reapportionment Office, including Gina Wright and Dan O'Connor, had "brought to light 'changing demographics'" in the challenged areas during the process.⁹⁴

The court noted that Mr. O'Connor sent emails to Representatives Chuck Efstoration and then-Speaker Pro Tem Jan Jones discussing a decrease in white registration versus a spike in Black registration and indicating the Black voter registration had reached a point in HDs 105 and 111 where those districts would become "targets" for Democrats.⁹⁵ The court took further note the Republican incumbents in those districts went to Ms. Wright for help and that she had knowledge of racial demographics in subsequently adjusting district lines. The court concluded that, though plaintiffs had not met the high standard for showing they were likely to prevail in their racial gerrymandering claim, the evidence presented to that point was "compelling" in pointing towards a conclusion that race predominated over other factors in redrawing these lines. The Court concluded that, "Ms. Wright and her colleagues openly undertook to help Republican incumbents. In doing so, the 2015 redistricting moved many black voters from districts where their votes would have made an impact into districts where they did not."⁹⁶

Secretary of State Brian Kemp soon thereafter found himself the subject of a lawsuit alleging that his office had unlawfully used a program that discriminated against voters of color in removing, or purging, citizens from the state's voting rolls.⁹⁷ Secretary Kemp was elected governor in the election in question. Governor Kemp was also challenged, in eight separate lawsuits, on the passage of S.B. 202, a measure purportedly aimed at voter fraud, which opponents argue is a red herring and chimera of which there is no proof, and implementing stricter regulations for absentee and other non-traditional modes of voting.⁹⁸

⁹⁴ Georgia State Conference of the NAACP v. State of Georgia, 312 F.Supp.3d 1357, 13-59-60.

⁹⁵ Id. at 1360.

⁹⁶ Id. at 1365, 1369.

⁹⁷ <https://www.courtlistener.com/docket/8220497/palast-v-kemp/>.

⁹⁸ Stephen Fowler, "Here Are All The Lawsuits Challenging Georgia's New Voting Law," GPB, March 19, 2021, <https://www.gpb.org/news/2021/05/19/here-are-all-the-lawsuits-challenging-georgias-new-voting-law>.

k. Conclusion

The State of Georgia was in the vanguard of denying Black people their rights under law. And it continues to be. Redistricting is one glaring example of this. There is a continuum in Georgia history, right on up to the present moment, of Black citizens being used to help further the agenda of the White party in power. It does not matter *which* party has been in power, historically. Black citizens, and eventually other citizens of color, clawed their way into the political process as Democrats. The White Democratic Party tried make its peace with its prior failure to include Black people, and to expunge its violent past, but it failed. And the newly White Republican Party took advantage. And now politics in Georgia are racially polarized in a whole new way. There are almost no Black Republicans in Georgia. There are no Republican Black elected officials in the General Assembly or statewide. Almost all Black people elected in the state are Democrats. And the Republican party, in terms of elected officials in the state, is not only almost exclusively White but also largely male.

There are some White Democrats, but the game has changed. The Republicans in power in the General Assembly routinely invoked the Democrats' abuse of power in the 2001 redistricting cycle as an excuse for their own potential abuse of power in the current cycle. But as one Black lawmaker pointed out, the constant in this narrative has not been party, but race. Black voters have been the "pawns" manipulated since the enactment of the VRA gave them the true right to vote. The party in power and the degree of racial polarization are the only things that have changed.

The question then becomes, how much does the process in the present mimic or proceed from that which we have seen in the past.

V. THE SEQUENCE OF EVENTS – THE “TOWN HALLS”

The formation of the General Assembly's committees on redistricting and the town halls that they held throughout the summer of 2021 revealed the following:

- The public was widely critical of holding these meetings before the release of the Census data and the publication of maps. They called for ample time for analysis and feedback and map-submission after the fact.
- The public was relentless in its call for a more transparent process, in general.

- The public and members of the committee wanted more of a dialogue than a one-way-street of taking community comment at hearings.
- Hearings were not held, according to members of the public and the committees, in the most populous areas of the state where they should have been.
- Maps ought to reflect the growth of Georgia’s minority population, including Black, Latinx, and AAPI citizens.
- The committees should not engage in packing and cracking said populations for the purpose of vote dilution in violation of Section 2 of the VRA.

The public’s concerns regarding the nature of the town hall hearings – their being held before data and maps were published and the ‘input-only’ format, constitute procedural departures from, if not past practice, then certainly from what the mass of the public viewed as best practices and good governance. The committee’s failure to respond to public calls for more transparency, more time, a reflection of the state growing minority population, and to avoid packing and cracking, constitute substantive departures. The committee made abundantly clear that it wanted and deeply valued public input, meaning this was information, quoting *Arlington Heights*, “considered important by the decisionmaker.” That input “strongly favor[ed] . . . decision[s] contrary to the one[s] reached by the committee when it ignored the vast majority of the input.

a. The Committees

Each chamber in the Georgia General Assembly has a standing committee that shepherds legislation during the redistricting process, though the actual map drawing is largely handled behind the scenes by staff in the Legislative and Congressional Reapportionment Office (LCRO), especially Gina Wright, by leadership in the majority, and by counsel and technicians hired by the majority. During the 2021 redistricting cycle, the Senate Committee on Reapportionment and Redistricting included Chairman John Kennedy and fellow Republican Senators Bill Cowsert, Dean Burke, Greg Dolezal, Steve Gooch, Butch Miller, Mike Dugan, Jeff Mullins, and Blake Tillery. Democrats on the panel, who were also the only members of color on the panel, were Minority Leader Gloria Butler, and Senators Tonya Anderson, Ed Harbison, Harold Jones, and Doc Rhett. Members of the House Committee on Legislative and Congressional Reapportionment included Chairman Bonnie Rich and fellow Republican Representatives Houston Gaines, Darlene Taylor, Susan

Holmes, Mandi Ballinger, Buddy DeLoach, Chuck Efstoration, Barry Fleming, Jan Jones, Randy Nix, Ed Setzler, Lynn Smith, and Richard Smith. Democrats on the panel, who were also the only members of color, were Kimberly Alexander, Carl Gilliard, Mack Jackson, Sandra Scott, and Mickey Stephens, with the latter being replaced by Rep. Brian Prince upon his passing away. The two committees formed a Joint Reapportionment Committee for the purposes of holding “town hall” hearings across the state during the summer of 2021 in order to take public testimony.⁹⁹

Members of the public were roundly and consistently critical of the format of these hearings, during which members would not take questions or provide feedback to the public. The primary themes that emerged from the meetings, particularly those held in areas of the state where Plaintiffs have challenged House, Senate, or Congressional districts, were pleas for transparency in the process and for time to review, provide feedback, and engage in a dialogue after Census data was received and after maps were produced. Leadership insisted that the delay in obtaining Census data was going to truncate the process. Members of the public repeatedly questioned the efficacy or value of the hearings absent any data or maps for their review. And they called into question the use of the term “town hall,” since, in their view, such a format would ensure a back and forth between representatives and members of the assembled public, not a one-way record session.

b. Atlanta, June 15, 2021

At the first town hall, on June 15, at the capitol building in Atlanta, leadership announced the schedule of the other hearings to be held in Cumming, Dalton, Athens, Augusta, Brunswick, Albany, Columbus, Macon, and Online via Zoom. They also noted that the committee had opened an online portal for public commentary. Chairman Rich told the public that “outside counsel” had that day informed herself and Chairman Kennedy of the “importance of preserving information.” A video prepared by the LCRO and featuring Chairman Rich, Chairman Kennedy, and Ms. Wright was shown explaining the basics of

⁹⁹ Georgia Legislative and Congressional Reapportionment Office website, <https://www.legis.ga.gov/joint-office/reapportionment>; House Committee on Legislative and Congressional Reapportionment website, <https://www.legis.ga.gov/committees/house/114>; Senate Committee on Reapportionment and Redistricting website, <https://www.legis.ga.gov/committees/senate/140>.

reapportionment and redistricting. With that the committee opened the floor for comment from the public.¹⁰⁰

Ken Lawler of Fair Districts Georgia explained his organization's partnership with the Princeton Gerrymandering Project, which he said had developed a system to obtain nonpartisan independent benchmarks for competitive redistricting. Mr. Lawler would appear at several other hearings and advocate for the Princeton system, though many other members of the public also expressed their concern that the result of redistricting would be districts with little to no competition. Christian Dent followed and expressed his fear that the General Assembly would repeat what it had attempted to do in 2015, which was, in his view, to gerrymander Henry County in order to removed Black voters from Republican districts. He shared his view that the Assembly had backed off of this effort in 2017 because of a federal lawsuit.¹⁰¹

Bugaj Panday was one of several Asian Americans who told the committee that AAPI citizens had accounted for a substantial portion of the state's growth in recent years. They expressed their dismay at the lack of proportional representation in the Assembly reflecting that growth. Mr. Panday noted in particular that his Senate district (48) and House district (50) were among the highest Asian American populations in the state and yet had only recently, in 2020, been able to elect an Asian American representative. Mr. Panday said, "Our community is predominantly people of color, and immigrants like me who share similar stories. So when Asian American hate crimes skyrocketed by 145% in the past year, it was not only harrowing for those in my community, but also a stark reminder of the lack of representation that we have. This has left our community largely apathetic and disillusion to politics. So much so that less than half of eligible voters in our community cast their ballots in elections before 2020. And this trend is not just limited to my city, my community or my district. It's a trend that has permeated throughout the state. There are a quarter of a million API voters in Georgia, yet they only make up 2% of the representation in the General Assembly."

Karuna Ramachandran with the Georgia Redistricting Alliance, an organization representing "African American, Latino, Asian American, African diaspora and queer and trans communities of Georgia," lamented a "lack of

¹⁰⁰ Senate Committee on Reapportionment and Redistricting, Meeting Archives, <https://vimeo.com/showcase/gasenrandr?page=2>; see for all subsequent paragraphs in this section.

¹⁰¹ See p. 29, *supra*.

transparency thus far in the process” and said, “These meetings seem to be an effort to check a box rather than creating real pathways for meaningful public involvement.” Lolita Tuft of Asian Americans Advancing Justice Atlanta followed and was among a number of people who, through the hearings, noted the growth of immigrant communities in the state and argued that language equity ought to be a concern to the committee. According to Ms. Tuft, the proposed town halls would not be “accessible or inclusive” and LEP residents” would be “deterred from engaging in participating in the redistricting process” if “key information is restricted to English.”

Other speakers, like Michelle Zuluaga with the Latino community Fund, wondered why the specific locations of the remaining hearings had not been announced and worried that members of the Latino community would be unable to attend with short notice. Alex Aimes was among several Georgia Tech students who would, thought the hearings and subsequent committee meetings, ask the committee not to split the Tech campus between two House and two Senate districts. Niles Francis noted that Section 5 preclearance had been nullified by the Supreme Court in the *Shelby County* decision, but he insisted, “I say that to say that even though these maps do not have to be pre cleared by the federal government, it is my expectation and my hope that these maps are pre cleared with Georgia voters,” meaning he would like to see time for public feedback and dialogue with the committees after maps were published and proposed. Camille Brown echoed those same concerns and asked that Cherokee County be kept whole in any plan.

Michelle Davis with Women Engaged said that she represented BIPOC, or Black, Indigenous, People Of Color communities, across Metro Atlanta and that those people were also concerned that this was the first redistricting cycle without preclearance and that made it “even more important that the process is done publicly and transparently” and “in full view of the public.” Andrew Lewis also bemoaned a historical “lack of transparency” on the part of both Republicans and Democrats when in the majority and asked that, at a minimum, the committee live stream all of its public town halls and hearings. Teddy Reece, the final speaker from the public, echoed calls for better advertising for the town halls and meetings.

Black members of the committee asked several questions of leadership at the conclusion of the hearing. Representative Jackson asked if there would be further public hearings after leadership and staff got the Census data. Representative Rich replied, “We don't we don't know yet. Because we haven't gotten the data yet. And

there's not necessarily a firm deadline. Our main, our main goal is to meet the deadline of having this special session so that we can get the maps drawn, and we just don't know what kind of timeframe we're going to be bumping up against.”

Senator Butler said that her concerns were “fair maps, number one,” but also “a transparent redistricting process that truly values public input and empowers historically disenfranchised communities.” She noted the growth of the state’s Black, Hispanic, and Asian American populations and said that new maps needed to reflect that growth. She also echoed public calls for the ability to provide substantive feedback on any proposed maps before they adopted, adding, “Democracy cannot happen behind closed doors.”

Representative Alexander asked if subsequent hearings would be streamed online and if there would be hearings held after maps were produced or would there be meetings between committee members and leadership to discuss those maps. Chairman Rich indicated her belief, based on the number of people who had signed up but not spoken, that the committee would probably only need one more opportunity for virtual input. Regarding the maps, she said, “I would encourage you to sign up and meet with me now so that we can get that information there. And then once we've met the requirements for the numbers, and then the requirements for the Voting Rights Act, we can start looking at these, these interests with the community and overlay that so and then I will be available. I have made arrangements with my private practice to be available to you all as much as possible. You know, before and after that we are going to be really compressed on time. I do have to continue to, to work in the private sector, too. So I'm trying to schedule it as best I can.”

Representative Scott asked, “Can anyone be sponsored by a legislator to work on a redistricting plan with the [LCRO] as long as they are sponsored? And if not, can plans be submitted by anyone directly to the [LCRO] with or without sponsorship?” Chairman Rich deferred to Ms. Wright who said, “In the past, we have not usually had individuals come in and work with us, especially on the statewide maps, or there have been a very rare few times, we've had a legislative sponsorship for someone to work on a local map for their county commission or a County School Board.” She said that plans could be submitted to the office but that it would have to be a full map and in the proper format in order to be considered. Chairman Kennedy adjourned the meeting, saying, “I want to thank the staff *that has enabled us to put this together* today and this evening and for this to work, I think, as well as it did.”

c. Atlanta, June 28, 2021

The second hearing at the State Capitol, on June 28, 2021, many of the same themes emerged as in the first hearing. Out of fifty people who spoke to the committee, eighteen spoke about the need for additional transparency in the process, particularly the process of actually drawing the maps. Twelve people expressed their concerns about gerrymandering in general and, more specifically, vote dilution by way of gerrymandering. Nine people spoke of their concern for People of Color – Black, Latino, and AAPI – and asked the committee to be mindful that they did not diminish those people’s right to participate equitably in the political process. Seven people discussed the importance of language equity and the need for the committee to ensure that people who were not English proficient or hearing had access to information both about hearings and information shared in the hearings. Seven people asked the committee to adopt maps that had more competitive districts, rather than drawing seats that were safe for incumbents. Six people expressed their belief that redistricting would exacerbate the harm cause by what they viewed as efforts by the General Assembly and the governor to suppress minority voting strength. Five people urged the committee to provide ample time after maps were proposed for the public to analyze them and provide feedback or alternatives. Four people called for the creation of a nonpartisan independent redistricting commission, and three specifically warned against packing and cracking minority communities.¹⁰²

Marcy McCarthy was among several individuals who identified themselves as Republican. Ms. McCarthy indicated that she was the chairman of the DeKalb County Republican Party. She described DeKalb as “a blue desert sprinkled with red and pink islands versus a purple pasture,” and expressed dissatisfaction with how the county was split among congressional districts, such that “right leaning voters in DeKalb County have no representation in Congress, the Capitol and in City Hall, and have become disenfranchised.” This had, in her opinion, “created the rise and terror of Stacey Abrams,” referring to the former Democratic candidate for governor.

Several speakers asked the committee to consider Buckhead as an indivisible COI and to pair it with Sandy Springs and Brookhaven or even with North Fulton along a “GA 400 corridor.” Some of those spoke of what they felt like was a sharp increase in crime in Buckhead and asked to be untethered from Smyrna so that those

¹⁰² Senate Committee on Reapportionment and Redistricting, Meeting Archives, <https://vimeo.com/showcase/gasenrandr?page=2>; see for all subsequent paragraphs in this section.

concerns could be addressed along with residents of Brookhaven and Sandy Springs. Some individuals asked directly for answers or commentary from the panel, but that was not forthcoming.

Attorney Harold Franklin at King and Spaulding spoke on behalf of the Lawyers' Committee for Civil Rights Under Law (LCCUL) and told the committee that they must ensure that Black voters had equitable access to electing candidates of their choice. He pointed the committee to an LCCUL report on gerrymandering in Georgia and mentioned, specifically, the litigation that had been brought in 2015 regarding House districts 105 and 111 in 2015 (which was mentioned at the previous hearing) and HDs 40 and 111 in 2017. Mr. Franklin indicated that he had submitted that report to the committee with his own comments.

Lavita Tuft, Policy Director at Asian Americans Advancing Justice, Atlanta, asked the committee to consider a letter that she submitted, signed by 63 organizations from across the state, calling for greater access for people with limited English proficiency (LEP). She said that the letter had been "ignored" up to that point. Maria Palacios gave her initial remarks in Spanish and followed up in English in a call for the same.

Reverend James Woodall, then the chairman of the Georgia NAACP, indicated his disappointment that some of the most populous counties in the state, especially Gwinnett and Chatham, were excluded from the list of public hearing locations. He also noted that roughly half of Georgians lived in the Atlanta area but there comparatively fewer town halls being held there. He was among several people to express disappointment, also in the fact that the state's Open Records Act did not cover communications between committee members or the actual map-drawing process. He called on the committee to release that information anyway and to avoid engaging in "backroom deals without full transparency." Another speaker, Britt Jones, asked "Why are we hiding" the map-drawing process. The Mayor of Avondale Estates, Jonathan Elmore, repeated these concerns, calling for more hearings in Metro Atlanta and asked for an open, not closed process."

Some speakers predicted that the maps would deliberately draw Representatives Lucy McBath and Carolyn Bordeaux into the same congressional district and asked the committee not to allow that. The Speaker Pro-tem of the House, Representative Jan Jones, reminded the committee that Democrats passed maps in the 2000 redistricting cycle that were judged to be unlawful and that the Republican Party had drawn maps in the 2010 cycle that were precleared by the

Obama Justice Department. This would become a theme during legislative deliberations that fall. Chairman Rich adjourned the meeting with no commentary from any member of the committee.

d. Cumming, June 29, 2021

At the public hearing held in Cumming, in north Metro Atlanta, a lack of transparency was again the primary concern among citizens who came forth to speak, with ten individuals speaking to that concern. They insisted that the committee “show its work” and that “Transparency means that legislators have public hearings not just months before the Census Bureau releases its data, but also after the data is released, which is when maps are actually being drafted, that committee members should “go to each Judicial District in Georgia to show their proposed maps to the public, explain how they got those maps, and meaningfully consider feedback,” and that “all meetings considering redistricting [be] done openly before the public with plenty of notice and access provided for Georgians.” Three others spoke of the need for time and feedback between when Census data came out and when maps were proposed, and between when maps were proposed and when they were up for a vote.¹⁰³

Seven speakers shared their concerns about the growing number of People of Color in the area, particularly Asian Americans, and they asked that maps reflect that growing population and not crack those communities in order to dilute their voting strength. To of those people also discussed access and accommodation for LEP citizens. Five individuals came forward to ask that Forsyth be kept whole in the new maps. Three people told the committee that county boards of education and/or commissions needed more seats. Two people expressed their dissatisfaction with Representative Bordeaux, though two others came forward in support of the congresswoman. Two people called for keeping Cherokee County whole.

Karuna Ramachandran with Asian Americans Advancing Justice, Atlanta, shared that her organization had been advocating for Asian Americans, Native Hawaiians and Pacific Islanders in Georgia, in particular in Forsyth County. She indicated that the “primary concern” for the organization was “language access.” She said that this was “particularly important in Forsyth County,” which by her measure was 15% Asian American, 10% Hispanic or Latino, 4% Black, and 17%

¹⁰³ Senate Committee on Reapportionment and Redistricting, Meeting Archives, <https://vimeo.com/showcase/gasenrandr?page=2>; see for all subsequent paragraphs in this section.

foreign born. Many of those people, she said, spoke a language other than English in home. She noted that there was no notice of the hearing in any language other than English and indicated that, in her estimation, “Forsyth deserves better.”

Hubba Rivzi made a similar appeal, though in regard to Gwinnett County and, in particular, Duluth. He noted the significant population growth there, especially in the form of Asian Americans. “Our communities have flourished,” Mr. Rizvi said, they had “established roots and grown our families, started businesses, rebuilt neighborhoods and communities.” He urged the committee to “ensure that Asian American communities are kept together through lines that our communities can thrive and elect people that will represent our voices and our values” and to “ensure that district lines in places like Gwinnett County and my hometown of Duluth are drawn fairly [with] communities of interest [kept] together. We ask that neighborhoods, schools and shopping centers that our families frequent are kept together,” he concluded, “and we ask that our voices and political power not be diminished by packing and cracking of these districts.”

Jennifer Ambler of Suwanee acknowledged an incentive to protect incumbents but cautioned against look[ing] at a close district that just barely flipped and tr[ying] to make it more hostile to the woman who flipped it in a seeming reference to either CD 6 or CD 7. Katie Gates expressed her belief that North Forsyth and South Forsyth were very different, and that South Forsyth had much more in common with North Gwinnett. “North Forsyth,” she said, “remains less diverse and more rural than South Forsyth. And due to these demographic differences, it makes sense that the two areas have different representation in their federal government in order to ensure that these needs are being met.” Conversely, she added, South Forsyth and North Gwinnett had both “grown rapidly over the past few decades” and “both areas have large commuter workforces and large, diverse populations of immigrants, largely Asian Americans.” She concluded, referencing CD 7 and Rep. Bordeaux, “Both areas are politically diverse Democrat and Republican neighbors living side by side. These facts are reflected in our recent election, where district seven very narrowly elected a moderate Democrat.”

A retired Army Ranger named Jeremy told the committee, “I do not believe that any given input given in these town halls will have an impact on decisions made.” The hearing was adjourned with no comment from the members.

e. Albany, July 27, 2021

At the hearing in Albany on July 27, 2021, the public commentary was mostly consistent with the previous hearings, though individuals did express some local concerns. Five people asked the committee, in the words of one person, for a “more transparent, thorough, accessible and equitable process.” Five people also spoke to the growth of the areas Black, Latino, and AAPI population and asked the committee to consider that when approving maps. Four people insisted that the process of taking public testimony would be more valuable after Census data was published and, more so, after maps were proposed. Two individuals asked for assistance for people who with LEP and two talked about voter suppression combining with gerrymandering to drown out minority voices.¹⁰⁴

Kimberly Fountain with the ACLU of Georgia expressed her opinion that greater Albany had grown “exponentially” in terms of minority communities. In her estimation, “The black voting age population has grown about 4% The Asian voting age population has grown about 40% and the Hispanic voting age population has grown nearly 30%, [while] the white voting age population has decreased by around 9%. Overall,” she said, “the people of color voting age population in the greater Albany area has grown by 5%.” In her view, the new maps needed to reflect that growth, in order to “ensure that voters of color have the same opportunity to elect candidates of their choice as white voters.” In her opinion that also meant “providing more opportunities for public hearings across the state after the full census data has been released in the fall and having a robust mechanism for citizens to provide feedback on proposed maps.”

Sierra Franklin with Common Cause Georgia, Albany, told the committee, “First, transparency and inclusivity is key. For too long redistricting has been done behind closed doors, placing the needs of partisan politicians over the needs of communities,” especially “Black, Latinx, AAPI, Indigenous, and other communities of colors that have traditionally been marginalized or excluded from the conversation and the process.” Ms. Franklin said that, “During the previous redistricting cycles, “decisions were made in secret and with sparse public input nor knowledge of the proceedings.” She advocated for live language translation services, “refraining from the use of alternative data sets to generate maps,” and “providing

¹⁰⁴ Senate Committee on Reapportionment and Redistricting, Meeting Archives, <https://vimeo.com/showcase/gasenrandr?page=2>; see for all subsequent paragraphs in this section.

public access to the data used to draft maps, as well as the public comment period on drafts or final maps before passage.” She also suggested “using official procurement procedures to obtain mapping experts, redistricting legal experts, or any of the other contractors who may be used in the redistricting process.”

Amina Farooqi of Nine to Five Georgia, Albany, told committee members that people did not have “safe water to drink” nor “access to affordable housing . . . precisely because they have not been fairly represented in the maps that have been drawn” in the past. She asked “that this process be transparent, [and] also that these maps be drawn to protect the black communities in Albany and southwest Georgia.” And she noted that, while the population of the southern half of the state had been decreasing, that in her estimation, the population of “young people of color” was growing, relatively.

Dougherty County Republican Chairman Tracy Taylor, the first Black person in that capacity, bemoaned that the representative from CD 2 had been a Democrat, not only for the last few decades, but going back to Reconstruction.

f. Macon, July 29, 2021

At the penultimate town hall in Macon, public commentary remained largely similar to previous hearings. Eight people indicated their opposition to gerrymandering of any kind. Six spoke about the perceived lack of transparency, including Danny Glover, who said, what was needed was “more openness and transparency in this entire process. Now I get that things are rushed,” he said, “But as the leaders of this state, we can't afford to rush this process. Because what happens when we rush, we leave so many people behind you consolidate that district, you disenfranchise thousands of people in my community, people who already have some of the poorest home of some of the poorest census tracts in the entire state.” Five people spoke about the needs of Black, Latinx, and AAPI citizens. Four people asked for hearings to be held after the publication of Census data and after the publication of maps. And three people spoke of the need for accommodations for people with LEP. Commissioner Ginger Morris of Toombs County was one of three individuals to ask the committee to keep Toombs together with Montgomery County in HD 156 and SD 19.¹⁰⁵

¹⁰⁵ Senate Committee on Reapportionment and Redistricting, Meeting Archives, [https://vimeo.com/showcase/gasenrandr?page=](https://vimeo.com/showcase/gasenrandr?page=;); see for all subsequent paragraphs in this section.

Carolyn Hargrove of the League of Women Voters of Macon noted that Macon-Bibb was split into 5 HDs, which, she said, “divides our community and diminishes our strength. We are also drawn into far flung parts of other counties. Three districts would be an improvement.” Mr. Glover asked that the committee acknowledge “the years of disenfranchisement, years of voter suppression tactics that my community has experienced. So I feel implore to come to you today to ask you to keep [Macon minority] communities whole. He noted that, according to the American Community Survey, the white voting age population in greater Macon had decreased by 5% while the Black voting age population had increased by 7%, Asian American VAP had increased by 27%, and Hispanic VAP had increased by 13%. He said, “The legislature cannot ignore the context that race plays in the state of Georgia and drawing these lines.”

Rua Roman with Georgia Muslim Voting Project, urged the committee, “Keep our communities together keep this process transparent, improve language access and increase options for public input during the redistricting process,” taking note especially of the “thriving Muslim community here in Macon.”

Mark Hall asked that Tift County be restored to a single HD. Mr. Hall lamented the use of “grotesque” gerrymandered shapes, citing in particular the 8th CD. Similarly, Nola Scott McFadden lamented the use of what she viewed as gerrymandered lines in local school districts. Ed Shenkovitch asked that the committee “ungerrymander” a slice of Houston County out of HD 144 for the benefit of those associated with Robbins Air Force Base.

Irving Fordham bemoaned having to drive “70 miles to get to this meeting. I heard about this from local NBC affiliate.” He said, “I reside in Allgood Elementary School precinct and Stone Mountain House District 86. And I've been registered in DeKalb County since August 1980.” He observed that “majority of African Americans [in the state] reside in Fulton DeKalb County, Gwinnett and Chatham counties. And we got to go all over to get to these meetings. And whoever scheduled these meetings, you knew exactly what you were doing. This wasn't no accident. We didn't find out about the earlier meetings until after the fact and thus had to drive 70 miles.”

Germanish Dantanna asked the committee to avoid “prison gerrymandering,” which she defined as “the practice of counting incarcerated people in the place they're incarcerated instead of the place they're from during the decennial census and redistricting.” The result, she said, was that “resources and representation [were]

disproportionately allocated to the area surrounding the incarceration facility. In Georgia, these incarceration facilities are often placed in majority white rural areas. And as we all know,” she added, “the US disproportionately incarcerates black and brown people.” She also warned that, in her understanding, the 2020 census, in the context of COVID, had significantly undercounted minority population.

Several speakers stated their belief that real decisions were being made “behind closed doors.” A few called for the committee to sue the Princeton Gerrymandering Project’s benchmarks for competition and fairness. Others called for the creation of an independent, nonpartisan or bipartisan commission for redistricting. Hannah Gebrselassie of Protect the Vote asked, “How do you plan to implement elements of our feedback into your planning, and building new maps to ensure that these hearings weren't just for show? What can you tell us? Otherwise, we will be doing a disservice to the communities that y'all have visited versus a service.” Cathy Cox, the Dean of Mercer law school and named plaintiff in the *Larios* case, as then Secretary of State, spoke to the committee about knowing their history and avoiding the mistakes of the past.

g. Augusta, August 11, 2021, Rescheduled from July 29, 2021

The Augusta town hall was postponed due to weather and was later held on August 11. Public concerns expressed there were consistent with those shared elsewhere, though there was a particular focus on the potential dilution of Black voting strength. As usual, a lack of transparency was the top concern among those who chose to speak. Twelve people voiced those concerns, saying, for example, “I stand before you today to say I want you to consider a fair, transparent and public process be followed, that my district is not split or changed unfairly, for partisan reasons, that my vote is not diluted, or diminished. And my community is paired with like, or similar communities, and my rights as a citizen are not violated in the process.”¹⁰⁶

Eight others expressed concerns about vote dilution. For example, Anthony Booker told the committee that putting Richmond County into a 55 percent white CD “disenfranchises the second largest city in Georgia, Augusta, which is 57 percent Black itself,” which amounted to, in his view “21st Century ‘taxation without congressional representation.’” Carlton Howard elaborated on those concerns,

¹⁰⁶ Senate Committee on Reapportionment and Redistricting, Meeting Archives, [https://vimeo.com/showcase/gasenrandr?page=](https://vimeo.com/showcase/gasenrandr?page=;); see for all subsequent paragraphs in this section.

saying, “Voices of Black people in Augusta are being silenced by including us with surrounding rural, White counties. It's things like housing, things like hunger, or homelessness, two of those items, and we cannot be compared to Appling County.”

Marian Brown with the local League of Women Voters indicated that she had “had the opportunity to listen to the concerns of other residents across the state of Georgia. And here's what I've learned.,” she said, “Georgians want fair districts, they want transparency. They want communities of interests to not be divided. And they want an end to partisan gerrymandering, [and] fair and competitive districts.”

Kayla Casey lamented that the committee had not headed her request to hold the hearing in Richmond County where, she said, people could ride the bus. The hearing was arranged by Rep. Fleming and held in Columbia County. She asked the committee to “commit to fair, transparent and open process of drawing lines that prioritize communities that traditionally have been marginalized” and to thus avoid “diluting minority voting power.” She also asked the committee to “commit to holding additional hearings for the public to view, understand and comment on the proposed maps also provide the public with sufficient notice and capability to review the maps before those hearings,” and for “legislators to draw the maps to explain why they chose to draw the maps the way they did, and not to hide any communications they have.”

Sherman Lofton Jr. with Alpha Phi Alpha Fraternity Incorporated acknowledged the state history, observing, “Unfortunately, Georgia has a history of undermining the influence of voters of color through the redistricting process. It is of the utmost importance that this body worked diligently, fairly and transparently to ensure that people of color have a voice in this process, because our democracy depends on it.”

Two individuals representing the Georgia Muslim Voter Project noted the state’s increase in minority and immigrant population and echoed previous calls for transparency, accommodations for individuals with LEP, and addition time for feedback and discussion after the publication of Census data and of draft maps. Alex Ohanian said, “Georgians have yet to receive any information regarding the dates for the upcoming special aid session. Georgians have pushed for additional public town halls following the special legislative session. Additionally, our calls for increased language accessibility have not been met. I have yet to see any sign language interpreters present at any of the public hearings.”

Dani McCord, Chairman of the Columbia County Republican Party asked the committee to consider Columbia County COIs, including agribusiness, Fort Gordon, Plant Vogel, the Savannah River Site (in South Carolina though employing many residents of Columbia), the technology and medical sectors, and its suburban nature.

Marika Keelstra with Fair Count told the committee, “I worry that these hearings will mean nothing if there's not a clear and public commitment from the committee to transparency and fairness in this redistricting process. This would mean telling us the criteria used in redistricting, making draft maps publicly available holding further public hearings available in multiple languages.” Another representative from Fair Count called it “telling” that the rescheduled meeting was held “the day before the redistricting data will be released.” Several other speakers expressed this same skepticism, indicating that they felt this was done deliberately to avoid a town hall hearing post-publication. The representative expressed their belief that “The hearing schedules, locations and tactics shut out the voices of more than 5 million people of color, keeping us from giving meaningful input on draft maps.”

As with the other hearings, this one was adjourned without substantive comment from committee members or leadership.

VI. THE SEQUENCE OF EVENTS – THE LEGISLATIVE HISTORY

I have reviewed the legislative history as available publicly. I understand that the parties to this suit are in a dispute regarding the availability of certain other highly relevant documents relating to this process. If those are made available, I will supplement my report to reflect whatever those documents may reveal. The legislative history that I was able to review reveals pleas and concerns that reflect what the public and certain members of the Assembly had already expressed in the town halls and the committee meetings, to wit:

- The public made consistent demands for more transparency, but the process was still carried out behind closed doors with staff and counsel.
- The fact that this had been done by the Democrats 20 years ago was used an excuse to do it again.
- Voters of color were being manipulated again for partisan advantage in places like Henry, Cobb, and Gwinnett counties.

- Congressional districts were stretching far up into North Georgia in order to avoid minority population growth in the northern Metro Atlanta suburbs.
- Women of color, specifically this time congresswoman Lucy McBath, were being targeted by line drawing.
- Staff in the LCRO and leadership on the respective committees were not as responsive to legislators of color as they were to the majority, which was all-white save for a handful of Latino and East Asian members, and none were Black.
- Committee leadership suggested that the Voting Rights Act was “unfair” in its application.

Ignoring the calls for transparency and time constitutes a substantive departure, insofar as the committee’s claimed to be deeply concerned with obtaining public input, and these were the top two concerns and they ‘favored a different decision’ than the one ultimately made to ignore that input. Using the 2001 process as an excuse for elements of the current process is both a procedural and substantive departure – substantively, there is nothing in the committee guidelines that instructs committees or the General Assembly as a whole to fashion its behavior and actions, procedurally, based on previous cycles. Concerns expressed regarding packing and cracking in certain areas and drawing the northern suburbs into the mountains point toward another substantive departure insofar as these decisions trumped guidelines like maintaining COIs. The concerns raised about staff point toward another procedural departure. And Chairman Rich’s comment regarding the VRA seems to be a highly relevant “contemporary [statement made by a member] of the decision-making body.”

a. Special Session Called, Maps Published

On September 23, 2021, Governor Brian Kemp ordered a special session of the General Assembly to commence on November 3, 2021. Five days later the LCRO posted online a proposed congressional redistricting bill and map sponsored by Senator Kennedy. On October 21, the LCRO published the congressional redistricting plan put forth by the House and Senate Democratic Caucuses. One week later, the LCRO published the Democratic Caucus’s state House and Senate plans.

And on November 2, it published the proposed House and Senate plans put forth by Representative Rich and Senator Kennedy, respectively.¹⁰⁷

b. November 3, 2021, Senate Reapportionment and Redistricting Committee

When the Senate Reapportionment and Redistricting Committee met on November 3, 2021, it unanimously adopted guidelines that Chairman Kennedy described as substantially the same as those used ten years prior and the same as those adopted by the House redistricting committee. Sen. Kennedy expressed his desire to meet the following day in order to obtain public input and then be ready to take a vote and pass out a Senate redistricting bill by Friday, November 5, the following day.¹⁰⁸

Leader Butler indicated that, “As we move forward with this process, that we will really listen to the people that we listened to over the summer. And that we will take in consideration all of the things that they said they asked for fair maps and transparency. And I hope that we are really listening and acting according to those requests.” Senator Harbison asked Sen. Kennedy if he had received comments from the State Conference of the NAACP, to which Sen. Kennedy said he would have to check on that and that he did not think his office had heard from them before the public submission portal closed.

c. November 4, 2021, Senate Reapportionment and Redistricting Committee

At the November 4 meeting of the Senate Reapportionment and Redistricting Committee, Chairman Kennedy indicated that he would present his plan for the Senate and that Leader Butler would present hers. Leader Butler reacted with surprise, saying, “I can't believe that you asked me to present a bill and didn't let me know that the bill being committed today. Did I get a notice that the bill was going to be in committee today?” Senator Kennedy replied, “It's announced on the floor. The hearing is today.”¹⁰⁹

¹⁰⁷ <https://www.legis.ga.gov/joint-office/reapportionment>.

¹⁰⁸ Senate Committee on Reapportionment and Redistricting, Meeting Archives, [https://vimeo.com/showcase/gasenrandr?page=](https://vimeo.com/showcase/gasenrandr?page=;); see for all subsequent paragraphs in this section.

¹⁰⁹ Senate Committee on Reapportionment and Redistricting, Meeting Archives, [https://vimeo.com/showcase/gasenrandr?page=](https://vimeo.com/showcase/gasenrandr?page=;); see for all subsequent paragraphs in this section.

Chairman Kennedy said that his legal counsel had assured him that the plan complied with the Voting Rights Act. He said that there would be examples that I can give that probably will be alluded to during the course of this process of specific things that we learned that we tried to incorporate into the map drawing process” from the public town hall hearings. And he made note of over 700 comments that had been posted in the online portal, along with “emails, various forms of communication, that we're all logged and catalogued, and in fact, have been logged, if you will and available to all of our committee members.”

Sen. Kennedy reminded the committee that they had held an “Education Day” in August, whereat they heard from several groups, including the state NAACP. On that day, he explained, the guidelines that the committee officially adopted the day before had been “unofficially adopted.” These included, “constitutional requirements of equal protection, compliance with the Voting Rights Act, including a recognition of racially polarized voting, and then the importance of jurisdictional boundaries, prioritizing communities of interest, compactness, and continuity.” Kennedy said that all of this along with input on the proposed Democratic plan, was conveyed to staff in the LCRO, and that a plan was published two days prior “to allow time for some comment.”

The Chairman touted certain features of the plan, including the number of majority-Black and majority-nonwhite districts and opportunity districts. Vice Chairman Cowsert added that, during the summer the committee had heard from the public that they should not split counties, pair incumbents, split COIs, and draw noncompact districts and says that they did less of that than before. Chairman Kennedy specifically mentioned the fact that Democrats in leadership went out of their way to pair incumbents in 2001. He then explained certain granular features of the plan.

Leader Butler asked the Chair how he defined COIs, which he said was an “overly vague” proposition. She asked which specific elements of the plan had come from public feedback during the summer. Sen. Kennedy indicated that the plan reduced the number of splits in Pickens County, the “Onion Belt,” from three to two. Leader Butler asked why the concerns of the citizens in that county rose to a level of action whereas people from Bibb and Clarke did not get the same consideration. Chairman Kennedy said that one cannot look at any one county “in a vacuum” because any decision or movement has a ripple effect on the whole map.

Leader Butler also questioned why SD 48's BVAP was reduced from 60 percent to 47 and its Latino population reduced by 50,000 when it only needed to shed 6,000 people. Sen. Kennedy repeated his belief that you cannot analyze districts "in a vacuum" and that SD 48 was not a Voting Rights Act protected district. Sen. Jones asked what metric was used to determine which SDs were VRA protected. Sen. Kennedy stated that he felt the VRA was too complicated to distill into a few sentences and says that he listened to legal counsel on that issue. Leader Butler indicated her impression that Chatham, Douglas, and Henry counties were all cracked to dilute minority population. The chairman asserted that the Democratic plan split more counties than his plan and that those areas were heavily populated.

With that the committee took public input on the proposed plan. The feedback from the public generally was almost entirely negative and generally mirrored what was said at the summer town halls. Individuals indicated that they felt the process lacked transparency, noting in particular the release of the map two days before the this meeting; they felt that the plan denied minority voters an equitable right to participate in the political process and elect candidates of their choice, both in terms of packing/cracking and vote dilution and in failure to act upon the many requests for accommodations for people who were LEP or deaf; and that there was a general failure to recognize the tremendous growth of the state's Black, Asian American, and Latinx populations. Senator Cowser occasionally asked questions or pushed back on some of these criticisms. Black members of the committee echoed constituent concerns. Otherwise, members of the committee stayed essentially silent.

Janet Grant of Fair Districts explained Senator Kennedy's plan received a grade of F from the Princeton Gerrymandering Project, while the Democratic Caucus plan received an A. She broke down where the GOP map fell short in terms of minority representation and competitiveness. Alex Ani of the Georgia Muslim Voter Project argued that "the newly drawn district maps should reflect Georgia's increased diversity, but to our dismay, they do not. And these maps unfortunately, do not follow the guidelines your committees have put forth following the public's input." Stephanie Ali of the New Georgia Project echoed those concerns and added that the GOP was released on election night as returns were coming in and the present meeting was being held during the Braves baseball team's World Series Victory parade as evidence that the majority was willing to let participation be stifled, in her opinion. She echoed the Minority Leader's concern that city and county splits were designed to crack minority population in certain places. She argued that the GOP would virtually eliminate competition and put to the committee, "I'm publicly calling

on this committee to instead of providing two days for review and input to provide two weeks of time for the community members to be able to review to measure and to comment on maps before any action is taken.”

Cindy Battles of the Georgia Coalition for the People's Agenda insisted, “What we're seeing though, is with this 19-to-20 majority-minority districts that you guys have created, you're packing that anywhere from 65 to 90%. So you're overpacking a majority minority district to dilute the opportunity districts around it.” John Moyer of the Urban League of Greater Atlanta stated, “The map which was presented by the committee, was made publicly available for the first time this past Tuesday, and I was with you at that committee hearing. The day before the special legislative session began, does little if anything, in our opinion, to correct to correct this significant cracking and packing of Georgia Senate districts and in many cases, Mr. Chairman, make the cracking and packing worse in violation of the guidelines to make the districts compliant with the Voting Rights Act of 1965 and the United States Constitution.” Mr. Moyer instead touted the “Unity Maps” that his organization had submitted.

Anna Dennis expressed to the committee her belief that “redistricting in Georgia has historically been conducted in secretive process, where interest of partisan operatives and party leaders were prioritized over interest every of the everyday Georgians.” This was done, she said, through “intentionally diluting African American voting strength. Also, what we have seen is that we've seen cracking and packing across the state. We are deeply concerned that the patterns of the past are repeating themselves in 2021. This is particularly concerning given the fact that preclearance is no longer in effect, which means that there is no mechanism to check the general the Georgia General Assembly maps prior to the enactment. Now that the redistricting process is not fair and transparent.” She mentioned, in particular, splits in the cities of Lawrenceville, Stonecrest, Newnan, and Fayetteville.

David Garcia, an advocate for “the Latino community throughout the state of Georgia,” insisted that his organization was “unable to provide a full analysis to the community to the committee because of the lack of opportunities to do so because of the intentionally compressed process whereby the committee plans to move forward on a vote on the plan after a single half day of public comment.” He cited particular SDs in Cobb and Gwinnett counties that, in his view, deliberately reached north into whiter counties in order to dilute the voting strength of Asian America, Latinx, and Black voters.

Kareem al Hussein with the Georgia chapter of the Council on American Islamic Relations told the committee, “The process hasn’t been transparent. Despite demands by the public throughout the summer, and the fall for the maps to be made public. They were only released 48 hours ago. Less than that, leaving no meaningful opportunity to be to review and have input.” He reiterated others’ concerns about minority representation and north Metro Atlanta SDs reaching north into whiter areas. He asked the committee, “How did you determine how many majority minority districts were required to be drawn to ensure compliance with section two of the VRA?” No answer was forthcoming.

A senior policy director with the ACLU of Georgia questioned the committee’s application of the Voting Rights Act. They indicated that simply acknowledging the racially polarized voting exists in the state was not sufficient under the law. “It has to be a localized analysis for every region of Georgia,” they said, “And the reason I bring that up is because it's not about an overall majority minority count. It's about where are those districts are. And as others have mentioned, it's not about packing more minorities into those districts that already exist, or even preserving its majority minority status. You have to actually determine whether maintaining that status is necessary for communities of color there to elect candidates of choice.” They added that the room was “packed” with advocates, many of whom were “running on fumes” because of the recent elections.

Vivian Moore of the Georgia NAACP noted that her organization had submitted testimony questioning the splits in Cobb, Clayton, Forsyth, Gwinnett, and Henry counties. Several residents of Henry County also questioned the splits there with one adding, “And the issue is that many minority voices will be overshadowed in the solidifying of this tri split, not only my county, but of other counties in the state of Georgia. Do not rush this vote.” Burdale Jackson questioned the split in North Fulton that saw his area of Alpharetta and Johns Creek paired with “far flung” Waleska and Ball Ground in northwestern Cherokee County.

Leader Butler asked the Chairman to postpone the scheduled meeting for tomorrow so that people would have time to digest what they had heard and to draft and submit maps. Chairman Kennedy replied that people had had access to the census data for months did not need more time.

d. November 5, 2021, Senate Committee on Reapportionment and Redistricting

At the November 5 meeting of the Senate Committee on Reapportionment and Redistricting, Minority Leader Butler presented the Democratic Caucus plan for the Senate. She began by criticizing the majority's process and echoing some of the public's criticism of the same. "Unfortunately," she said "the proposal offered by the majority, and the process by which the majority appears intent on approving it today falls short of a fair map or fair and transparent process. The majority seems intent on allowing just less than 72 hours to review and provide feedback on a map that will affect their lives for the next decade. The majority's proposal was publicly released Tuesday night, as polls were closing, and election results were coming in." There was no reason in her estimation not to slow the process down.¹¹⁰

Senator Butler then explained the Democratic Caucus plan in detail and took questions from the committee. Sen. Cowsert asked why the Leader began each explanation of the map features by talking about race and asked if all of the majority-minority districts in her plan were required by the VRA. She indicated her belief that they were and deferred to Senator Elena Parent, who explained that the caucus had retained an expert, Chris Outland, to conduct an RPV analysis and to draw the map. Sen. Dolezal asked why the plan split Forsyth four ways when it was currently only split two ways and when members of the public at the hearing in Cumming expressed their desire for Forsyth to be kept whole. Sen. Parent replied by using Sen. Kennedy's earlier rationale that one cannot examine any given county "in a vacuum." Sen. Dolezal asked if Mr. Outland used political data, which Sen. Parent affirmed. Sen. Jones insisted that this was a clear illustration that the committee should have worked together in hiring experts and having these discussions.

The committee then allowed for public comment, though again with little to no feedback from or interaction with the members of the committee. The commentary again focused on the lack of time for the public to digest and analyze and comment on the specifics of the map. Amy Swygert told the committee, "This is the most important part of the process. This is the part of the process where we as voters, get to tell you all whether you heard us right. When we spoke to you over the summer, we can now tell you, did you hear us? And how did our feedback, make it into your proposed plans? And unfortunately, that is the part that is being rushed?"

¹¹⁰ Senate Committee on Reapportionment and Redistricting, Meeting Archives, <https://vimeo.com/showcase/gasenrandr?page=>; see for all subsequent paragraphs in this section.

She acknowledged Chairman Kennedy's statement that the committee owed the governor an efficient special session and said, "I feel the need to remind you all that you do not work for the governor. And I do not work for the governor. You work for the people in this room." Sen. Mullins noted that Ms. Swygert worked for Sen. Harold's staff.

Keyanna Jones told Sen. Mullins that she videotaped him sleeping in the previous meeting, drawing admonishment from the Chair. Ms. Jones said, "You have questioned and beat with a stick the idea of communities of interest? Well, let me tell you what my community is interested in. My community is interested in truth, justice and the idea of the American way; my community is interested in being able to make informed decisions regarding things that affect them; my community is interested in adequate notice of a public meeting such as this; my community is interested in being able to access the same data that you have that caused you to draw your maps, or the maps more specifically, with more than 48 hours' notice of the initial meeting; my community is interested in being heard and being represented by people not only they don't have to look like me, but they got to share my ideals. They got to be ethical; they got to be transparent."

Phyllis Richardson with Common Cause asked the members what decisions had been made regarding the GOP map in order to comply with the VRA. The Chair told her that the public could comment but that "We do not respond to public questions. Only members can ask questions."

No action was taken on the Democratic Caucus bill. Senator Kennedy's bill, SB 1 EX, passed with a favorable recommendation by a vote of 9-4. All Black members of the committee voted against it.

e. November 5, 2021, House Legislative and Congressional Reapportionment Committee

At the November 5 meeting of the House Legislative and Congressional Reapportionment Committee, Chairman Rich presented the majority's state House plan, and Minority Leader James Beverly presented the Democratic Caucus's plan. Leader spoke first and walked through the particulars of the plan, closing with, "No member of my leadership team met behind closed doors because we wanted to

maintain transparency. You spoke; we listened.” He then took questions from committee members.¹¹¹

Rep. Efstration asked why the minority’s plan split so many counties. Leader Beverly deferred this question to the caucus’s map-drawer, Mr. Brian Sells. Mr. Sells indicated that the county split criterion was balanced against other concerns, namely VRA compliance. Rep. Efstration asked if public input had been considered, and Leader Beverly indicated that, in addition to the town halls, the Legislative Black Caucus has conducted its own set of hearing across the state from which it had gathered input. Rep. Efstration asked, did the minority map not fail to adhere to the guideline of avoiding incumbent pairings, to which Leader Beverly replied that the majority’s map paired more incumbents, including more Republicans, than the minority map.

Rep. Lynn Smith asked how did you take account of the VRA. Leader Beverly indicated that the caucus had “made sure not to dismantle any opportunity districts, and we actually created three more. It complies with Section 2 by any measure.” Leader Beverly indicated that the caucus had submitted the plan to the LCRO to ensure technical compliance and for feedback from Gina Wright. Rep. Taylor expressed skepticism as to whether the caucus took into account the thought of any Republican members of the assembly. Rep. Prince asked Leader Beverly to define a COI, which Mr. Sells says is really “in the eye of the beholder” but involves cultural, religious, racial, ethnic, and rural/urban considerations.

White and Black members of the committee asked about the RPV analysis that the caucus conducted. Mr. Sells indicated that the expert who ran the analysis was Stephen Popick. Rep. Fleming asked Leader Beverly is 80 percent BVAP districts were packed. Mr. Sells replied with the “in a vacuum” defense and insisted that packing was only a concern where it was not necessary.

With that, Chairman Rich presented the majority House plan. She indicated that Gina Wright would assist her in doing so, because “we rely on her so much,” and that Mali Aziz was the map-drawer. The chairman recounted the town halls and said that the information gathered there was useful. She noted that staff had printed off the comments from the public online portal for members. And she reminded the committee of the Education Day that was held at the capitol in August. She noted

¹¹¹ House Committee on Legislative and Congressional Reapportionment, Meeting Archives, <https://www.house.ga.gov/Committees/en-US/CommitteeArchives114.aspx>, see for all subsequent paragraphs in this section.

input from the Democrats, the state NAACP, and mentioned consulting the so-called “Red Book” published by the National Council of State Legislatures. She then gave a rundown of some of the particulars of the plan.

Rep. Scott noted that the schedule for this meeting had previously listed “TBB” and that this bill/map had only been made public and available to committee members, at the same time, a couple of days prior. She said that the public was demanding more time to analyze the map. Chairman Rich replied that the public had had the “opportunity to comment since June.” Rep. Gilliard added, “We have just had this map put into existence into the last few days. I have to tell my people, ‘Just deal with it.’ We need to let the constituents have a say. I don’t know what to say to my people.” Chairman Rich said that it was “physically impossible” to do what Rep. Gilliard was asking and that two more meetings would be ample.

f. November 8, 2021, House Legislative and Congressional Reapportionment Committee

The House Legislative and Congressional Reapportionment Committee met next on November 8, 2021 to discuss a revised majority House map published that day by the LCRO. The first person to speak was Rep. Philip Singleton of HD 71 in Coweta County. Rep. Singleton asked that certain precincts that he represents be moved back into Coweta in the majority’s plan, as they had been moved in with neighboring precincts in south Fulton County to the north. Subsequent commentary from white members of the community from Coweta revealed their fervent desire not to be moved into south Fulton, a majority area, lest they “become like Cobb [County], very likely meaning more diverse. A group of 8 white citizens from Rep. Singleton’s district came to the meeting with signs reading “Don’t California my Coweta.” Mr. Singleton held a town hall of his won in which he told his constituents that they were being “drawn into voting rights districts” and that he had to be careful not to say much more than that. When they came to the meeting, the constituents stated their belief that Mr. Singleton was being drawn out of the county (his home was in the affected area) in retribution for joining a lawsuit over Dominion Voting machines against the then Speaker of the House, David Ralston.¹¹²

Chairman Rich told the constituents, which included some in an adjacent district to Mr. Singleton’s who were also moved into south Fulton, “I am

¹¹² House Committee on Legislative and Congressional Reapportionment, Meeting Archives, <https://www.house.ga.gov/Committees/en-US/CommitteeArchives114.aspx>, see for all subsequent paragraphs in this section.

sympathetic to your plight” and “I do have sympathy for your position.” But she indicated that population change was driving those decisions and “No matter how much anybody here on this committee or in this room thinks that the application is unfair here, this is just not the body that has any authority to change the Federal Voting Rights Act.” She encouraged them to reach out to Senators Ossoff and Warnock, which drew audible groans and protestations. One woman from Coweta stated her belief that the Democrats map was better than the majority’s.

The remainder of public commentary largely hued to what had been said in previous meetings. Stephanie Lee of the New Georgia Project said, “I am “still appalled at the speed at which these maps are being put through.” She likened the argument that the public had enjoyed plenty of time for input over the summer to “saying that you talked to an architect about building your house and then just never checked back in with them until you moved in. And then you find your house doesn't have bathrooms or like a level floor or a stairwell that goes anywhere.” She added, “I just also want to question whether the party has in power has any written publishable guidelines that have been used to draw these maps which affects all of the Georgians that are living under them. You yourself on Friday and earlier today spoke about protecting some of the current incumbents and avoiding paring incumbents. Whereas Senator Kennedy in the Senate mentioned that that was even worse when the Democrats talked about doing it for their bill. It seems like there's no consistent guidelines being used for the drawing of the maps and Georgians deserve to know what specifically was used in drawing them.”

Cindy Battles, GA Coalition for the People’s Agenda, accused the majority of packing majority minority districts to prevent opportunity districts and making sure you only create so many majority minority districts to barely comply with the law while making sure you keep the majority in the state house.” Though she added, “But I have not had a chance to run the new map. So if some of this is wrong, I apologize.” She stated her analysis that in the GOP plan, “Clayton County and other south metro Atlanta suburbs remain constrained rather than drawing them outside to prevent packing. Districts on the edges of all suburban counties reach outwards into their white neighbors to dilute the increasing diversity of suburban counties.” Vasu Abirahman, of the ACLU of Georgia likened it to “telling an editor to send suggested edits for a piece of writing without having seen the writing that they're trying to edit.”

Similarly, Aisha Yaqoob, with the Asian American Advocacy Fund said, “We really wanted to make sure we had ample time to be able to review the maps. And although we had a week with the last version of the maps, I think we just saw these maps less than an hour ago. So some of my comments may not be valid, so I will skip through them.” She stated her opinion that the Asian American population in north Atlanta Metro had been packed.

Karen McCowan with Fair Districts Georgia explained that the Princeton Gerrymandering Project gave both plans a grade of B. Representative Setzler noted that if this group had time to analyze the plan, then others should have as well, and he lauded the majority’s plan garnering a B grade.

Hannah Gebrselassie with Protect the Vote argued, “We've seen how this process has been rushed, rushed in a way where the people of Georgia aren't able to really express their concerns around this new map around the new maps that have been drawn. We saw what happened in the Senate on day three. On day three, they passed this version of a map that we didn't even get to fully understand because it was a substitute version. That doesn't reflect transparency.” Julie Bowen of the League of Women Voters noted that this issue “was brought up in nearly every hearing you had over this summer” and yet still was the primary concern of citizens. Kevin Burgees, a resident of Coweta, added, “To this day, I do not understand why this committee's process to vote on these maps has to be rushed.” Elaine Kilgore of Fayette County said, likewise, “I think this is a bipartisan agreement that we need some time.” Allison Calhoun said, “We were told on Friday that our county has had since June, to bring our concerns and express our concerns. We did not have since June. We found out about this Wednesday night at around 759. On a social media post.”

Subsequent speakers repeated these same concerns along with those of language access, minority vote dilution, and overall transparency. One woman, Keyanna Jones, engaged in a heated back and forth with Rep. Setzler and was ordered by Chairman Rich to be removed from the room by a white capitol police officer.

g. November 9, 2021, House Legislative and Congressional Reapportionment Committee

The meeting of the House Legislative and Congressional Reapportionment Committee opened the following day with public commentary, through this was roundly consistent with what had been said the previous day. Some speakers who

had had more time to analyze the plan noted specific features. Representative Alexander noted, “We received these maps on Friday; we received a revised copy at 12:55 yesterday.” She added, “One of the biggest questions from the town halls that all of us heard was, once the maps are released, will there be public input.” The public had demanded transparency, she said. And yet she said, I’m still trying to digest it; as a matter of fact, it is 261 pages.” Chairman Rich said that revisions made to the map were made primarily at the request of members and had been discussed the previous day at the meeting.¹¹³

Representative Scott noted that the substitute map was still not available to the public online and that, in her understanding, since a vote was about to be taken, that “the comments that are made this morning would not be considered. And to the maps. If we are getting ready to have a vote on the mats, then the people just came down to talk, because their comments are not going to be considered in the maps.” Chairman Rich replied that the map had been discussed “exhaustively” the previous day, despite the fact that very little actual discussion took place. Rep. Setzler added the “original” map had been published the previous Tuesday.

The majority plan was voted out favorably with all Black members of the committee voting No. The following day the House committee passed the Senate’s bill through by the same vote. The day after that, Nov. 11, the Senate committee passed the House’s plan through in a similar fashion. Public commentary and questions and comments from Black committee members at these relatively brief meetings mirrored those in the meetings held theretofore. At no point did any Black member vote for a plan that passed through.

i. Nov. 9, 2021, Senate Floor – Passage of Senate Plan

When the Senate plan came before the full Senate on November 9, Democratic Senators, most of them Black, expressed many of the same concerns that the public had relentlessly come forth with during the committee meetings and going back to the summer town halls: they argued that this seemed to have been handled in a deliberately and unnecessarily rushed fashion, including a refusal to allow adequate time for the proposed plan, belatedly put forth as it was, to be adequately considered and analyzed; the lack on time for input specifically once the map were posted; the many of the county and city splits seemed deliberately designed to crack minority

¹¹³ House Committee on Legislative and Congressional Reapportionment, Meeting Archives, <https://www.house.ga.gov/Committees/en-US/CommitteeArchives114.aspx>, see for all subsequent paragraphs in this section.

populations; and a lack of access to the map-drawing process and individuals associated with it.¹¹⁴

Senator Kennedy presented the bill and took questions. Senator Emmanuel Jones, a Black member, asked why the plan split Henry County three ways. Senator Kennedy replied with the “vacuum rationale” saying, “That it is a part that is necessarily connected to the other 55 districts. And the only way I know that is having gone through the exercise in the map drawing and room of knowing how a small change is something that perhaps one corner of the state can ultimately impact the rest.” He added that he and staff had to comply with the VRA and keep SDs 10 and 43 majority-minority. Jones followed up by asking why the Black population in SD 17, stretching through Henry, Newton, Morgan and Walton, was reduced by nearly 25,000 when the district only needed to lose around 12,000 people. Kennedy said, “It’s not like the black residents you’re alluding to somehow disappeared or moved out from Georgia.” They were “represented in the other districts around 17.” Others countered that it was “actually quite possible” to maintain the existing majority minority SDs while keeping 17 more compact and within Henry.

Sen. Jones questioned whether or not the complied with Section 2, saying, “We’ve received no name of counsel nor were given any opportunity to speak to that counsel. In fact, I sent several emails, after it was stated in committee that this counsel and experts were available to the whole Senate. I sent several emails trying to actually speak to these alleged, you know, experts who have been guiding the majority in the process and did not receive any response.”

Senator Parent argued that the plan had been “released without fanfare the night before the session began. . . . While no one was looking.” She wondered why no committee hearings had been held in Cobb, Gwinnett, or DeKalb. She said this made it difficult for a large portion of the state’s population to make their voices heard but said, summarizing the roundly negative feedback the public did give, “We heard a common refrain. Hundreds of Georgians told us that they wanted an open and transparent process and fair maps that respected communities of interest, partisan preferences, and the diversity and population shifts of Georgia.” Yet, she said, this process ignored their pleas.”

Senator Derek Mallow, a Black member, echoed Sen. Emmanuel Jones, wondering why “only one hearing was held in the city of Atlanta, where 70% of the

¹¹⁴ <https://vimeo.com/georgiastatesenate>.

population resides” and none were held in Savannah-Chatham. He expressed incredulity at the timeline of events as well, saying that in the town halls and subsequent hearings, “What did we hear again, and again, over and over, from the citizens across this great state? There was one thing that rose above all others. And that was the request for transparency. Georgians asked for maps will be released with ample time for public consideration and input before making them final. Yet here we are,” he said, “with maps that flew through the reapportionment committee in a couple of days, maps that were released on *Twitter* change without notice the night before the hearing and pass along party lines less than 72 hours after they were made available.” Senator Cowsert insisted that all members of the Senate had been invited to speak with Chairman Kennedy at the onset of the process in order to express concerns.

Several other Democratic Senators spoke in opposition to the map, noting SDs that appeared to be packed or cracked and criticizing the map in general for failing to account for minority population growth. Towards the close of debate, Senator Harold Jones sought to contextualize the VRA, saying that it was enacted because of the history of discrimination in voting rights and reminding the chamber that the entire Georgia congressional delegation voted against the measure. Sen. Albers, a Republican member, rhetorically asked what party those members of Congress belonged to, which was the Democratic Party. Sen. Jones replied, “The consistent factor in all of this is not about the parties. That consistent factor has been that black bodies and African Americans have been used as pawns, as far as political power is concerned in this country.”

Senator Kennedy closed debate by comparing the process he oversaw to how the Democrats handled it in 2001. Would you believe,” he said, “that in 2001. That bill was first introduced on session day, one Wednesday, August one. And guess when it was favorably reported by committee, out of that committee, session day three.” He mocked the Princeton project, insisting that “my friends from New Jersey came down and want to impose some good old New Jersey values here in Georgia.” And he insisted, “Republicans are not going to be lectured by Democrats who ran the system 20 years ago the way they did, and come into this chamber and talk about how horribly unfair it is, and what a challenge it is to democracy. No, no.”

The bill passed 34-21 with no Black members voting in favor.

j. November 10, 2021, the House Floor – the House Plan

When the Georgia House of Representatives convened the following day, it took up the majority’s House plan. Members of color expressed frustration mirroring that shared on the Senate floor the previous day: House districts, they felt, had been deliberately packed and cracked in order to dilute minority voting strength; time for analysis and debate of the plan after the map was released was far too short; the process of actual map-making was done behind closed doors, while public input from the summer was largely ignored; and leadership and staff did not ensure that a proper RPV analysis was conducted.¹¹⁵

Representative Carolyn Hughley observed, “Republicans have boasted about hosting joint redistricting hearings around the state, as if hearings prior to the census data release provided sufficient information or education for our constituents to gain an understanding of the redistricting process and share their concerns based on a real proposal.” The majority, she said, had “decided not to yield to the pleas of constituents for transparency. Instead, this map has been rushed through the legislative process.” Representative Sandra Scott agreed, noting that “COVID and the Census delays created problems,” but she argued, “They “did not force us to ignore the public in a rushed process that will undoubtedly change Georgia permanently.” Rep. Gilliard felt that the committee “put the cart before the horse” and “put the symbolism of public in engagement ahead of what the public really needed.”

Representative Singleton drilled down on this point, saying, “It’s important to note that with 88 hours of meetings 30 plus hours of public hearings, 900 plus comments, not one single amendment was submitted to the committee to adjust these maps. All of this, everything on these maps was done behind closed doors with a select few.” It was, in his view, “political theater.”

Representative Sam Park insisted that in order to “ensure the map drawn and passed protects the rights of voters of color to elect their candidates of choice, a racial bloc voting analysis is a must. Unfortunately,” he said, “we do not know if a complete racial bloc voting analysis was conducted. For the Republican map on the floor today. There has not been full disclosure to the public, or even committee members. On this point, the name of the expert statistician retained to conduct such analysis on the Republican map is still unknown. What we do know is the

¹¹⁵ <https://vimeo.com/georgiahouse/albums/page:1/sort:date>.

Republican map fails to reflect the growing diversity of Georgia and draws one less opportunity district than the proposed Georgia House Democratic Caucus map. The Republican map also dilutes existing opportunity districts. This Republican map threatens the ability of voters of color to elect candidates of choice.”

Representative Efstration pushed back on this, insisting that “careful consideration” had been given to Section 2 and that the majority map had minimal population deviation, a relative lack of county and municipal splits, and increased the number of opportunity districts. Representative James Burchett, a Republican, noted that the plan paired himself with another incumbent but said he still supported it. The Speaker Pro Tem, Jan Jones, referred again back to the Democratic redistricting in 2001 and touted the 2011 plan’s preclearance.

Leader Beverly gave the final word for the opposition, observing that “Public comment on this map, including from Republicans was overwhelmingly negative and that “it was promptly ignored.” Chairman Rich responded by asserting that the majority’s first draft map reflected “all of the public comment that we had received through our public hearings across the state and through our written portal.” She said that some Democratic members had met with her but that “apparently” others had been advised not to do so. She expressed frustration at the Black Caucus not sharing the results of their town hall hearings and insisted that leadership and staff had conducted an RPV analysis, the result of which were “that there was a finding of racially polarized voting” in the state.

The House voted the plan out 99-79, with no Black members voting aye.

h. November 17, 2021, Senate Committee on Reapportionment and Redistricting

When the Senate Committee on Reapportionment and Redistricting reconvened on November 17, Chairman Kennedy noted that the Senate had posted a “draft” congressional plan on September 27 and that the public had been able to comment on that in the portal. As subsequent commentary from the public and Black members of the committee would make clear, however, the map being considered that day for a vote had only been posted hours before the meeting. Chairman Kennedy gave a run down of the map, explaining that the VRA districts were CDs 2, 4, 5, and 13 and that CD 7 was an opportunity district. He mentioned the

previously adopted guidelines and added preserving the “cores of existing districts.”¹¹⁶

Public comment followed. Maggie Goldman of Johns Creek told the committee, “This new map, from which I can tell, only released a few hours ago, pretty much cuts Johns Creek out” of CD 6 and “out of the North Fulton community of interest. The residents of North Fulton and specifically Johns Creek have not had an opportunity to weigh in on these maps. We need more time.” She asked, “How does Dawson or even Forsyth have anything in common with Sandy Springs? Absolutely nothing except for creating a mostly white majority district. us six will flip from a competitive district to a plus Trump 15. The intent here is blatantly obvious.” Finally, she noted that “A large Asian community in Johns Creek is being added to us seven, which will dilute their representation.”

Cindy Battles appeared again and indicated that it was her understanding that the expert who drew the map was on Thomas Brunel, a political scientist whose publications include *Redistricting and Representation: Why Competitive Races are Bad for Elections* (2008) and whose expert resume included working on maps in North Carolina that were deemed to be racially gerrymandered. Ms. Battles was among a number of speakers who expressed their belief that “CD 7 was saved while CD 6 is obviously meant to make sure Lucy McBath is not reelected.” She concluded, “You waited until the last minute to introduce a map, which cracks impacts people of color, to dilute their voting rights and voting strength, the racial concerns predominated the decision making over traditional districting principles and demonstrates that Georgia's long and documented history of racial discrimination continues to be present in these maps for the next decade.”

Ken Lawler of Fair Districts Georgia also appeared again. He began by saying that releasing the draft map in late September had been a “step in the right direction,” but he added that “today's release of the real map just hours before the hearing really is a giant step backwards. This does not give the public almost no time for meaningful public analysis and input.” He noted the Princeton Project gave the map a C grade.

Mary Lou McCluskey indicated her belief that CD 4 was packed while CD 6 was cracked. She argued that it was unnecessary to redraw the sixth and seventh districts the way you have done neither in order to take into account census changes

¹¹⁶ <https://vimeo.com/showcase/gasenrandr?page=1>.

in Georgia or to assure minority opportunity for representation.” Stephanie Lee appeared again and stated that, regarding CDs 6 and 7, “I think a lot of us in Georgia were pretty sure one was going to be changing dramatically, while the other was pretty secure. And it is not lost that the that the black woman versus women is the one who's facing the most change versus the white woman” referring to Reps McBath and Bordeaux.

i. November 17, 2021, House Legislative and Congressional Reapportionment Committee

The House Legislative and Congressional Reapportionment Committee also met on November 17 to consider competing plans for congressional redistricting. Leader Beverly presented the Democratic Caucus plan, while Chairman Rich presented the joint Senate and House majority plan. Rep. Scott asked the Chair if the majority performed an RPV analysis. Rep. Rich said that they did but she cannot recall the name of the expert who did so. Rep. Scott followed up by asking how did they know how many majority-minority districts would be necessary to comply with the VRA. Chairman Rich replied, “There's not a magic formula or standard or equation, but where we find that there are areas where we can draw the Voting Rights districts, then then we do that.”¹¹⁷

Rep. Scott noted that CD 6 was “represented by an African American woman, is diverse, and the most competitive district in the existing map” and asked, “Why did you choose to make the district whiter and less competitive?” Chairman rich answered, “So we did not make any decisions based upon the individual who holds any seat, I want to make that clear. We drew our maps based upon the population shifts, we had incredible population growth in Cherokee County and in Gwinnett County.” Maggie Goldman subsequently noted that CD 6, where she is a resident of Johns Creek, only needed to shed 650 voters, whereas thousands were moved out and in. She added that this would indicate that “preserving the cores of districts” and accounting for population growth were not the motivating factors in the changes to the district.

Representative Alexander raised similar concerns regarding splits in Cobb and Henry counties in the GOP plan. Chairman Rich again deferred to population growth. Mary Keelstra from Fair Count testified, echoing the testimony of many others who spoke, “This process has been rushed. The maps released at 10am this

¹¹⁷ <https://www.house.ga.gov/Committees/en-US/CommitteeArchives114.aspx>.

morning will affect the resources and representation our communities receive for the next 10 years, the Senate and House committees have stated there will be a public period, a period for public input on these maps. But how can the public have input on something that was released just a few hours ago?”

j. November 18, 2021, House Legislative and Congressional Reapportionment Committee

The committee met again the following day and allowed for further public commentary without member response. By this time, residents of southwestern Cobb County had realized that their precincts had been moved into CD 14. Erica Thomas, the House representative from Austell, Powder Springs, and Mableton, condemned the dilution, in her estimation, of Black citizens of West Cobb and putting them in a CD in which “they so clearly do not belong.”¹¹⁸

Rep. Setzler defended Congresswoman Taylor Greene’s ability to represent voters of color. Leroy Hutchins, a resident of the area in question, demurred. He argued that West Cobb was part of Metro Atlanta and a hub of tourism with significant transportation concerns. This had nothing in common with the bulk of CD 14. Furthermore, he argued, “Congresswoman Marjorie Taylor Greene does not represent [our] values. What we saw in January [referring to the violence at the U.S. Capitol] was despicable, is not American, and her opinions of that day do not represent that of the area, and our communities.” Several other speakers relayed these same concerns, while others reiterated the long-running concerns about transparency.

k. November 18, 2021, Senate Committee on Reapportionment and Redistricting

At this meeting, Minority Leader Butler presented the Democratic Caucus’s plan for congressional redistricting. She took questions from Sen. Dolezal, who wondered why Forsyth was cut off from North Fulton and why South Gwinnett was paired with Newton County. Sen. Anderson replied that the latter was no change from the current map. Sen. Rhett lamented the inclusion of West Cobb in CD 14 in the GOP proposal and noted that CD 13 was far less packed in the Democratic proposal. Chairman Kennedy asked why there were so many county splits in the

¹¹⁸ <https://www.house.ga.gov/Committees/en-US/CommitteeArchives114.aspx>.

Democratic plan. Leader Butler said that that criterion was subordinated to compliance with the VRA.¹¹⁹

Sen. Cowsert asserted that the Democrats' map packed "Caucasians" into CDs 3, 9, 11, and 14 and cracked them in CD 10 and that, insofar as Sen. Butler was "arguing" that "Caucasians" were in the minority in Georgia, then this ought to run afoul of the VRA. Sen. Jones replied that this was not his understanding of the meaning or purpose of the VRA. Chairman Kennedy expressed his frustration at Leader Butler for not sharing with him the information gleaned from the Black Caucus's tour of the state. Sens Harbison and Anderson argued that the information was largely redundant to information the committee received otherwise and that, insofar as it was not, the committee and chair were getting that feedback now by way of the Democrats' proposed map.

With that the committee took public commentary for the final time. Feedback was again overwhelmingly negative and focused on the same issues of transparency, time, and minority vote dilution. For example, David Garcia of the Vallejo Impact Fund said that the majority's map, in his view, "cracks populations of people of color dilutes minority voting strength and racially gerrymandered districts to make it more difficult if not impossible, for voters of color to elect candidates of choice." Among the "most egregious" examples of this were increasing the White population in CD 6 by reaching out into Cherokee, Forsyth, and Dawson, the packing of CD 13, and the cracking of Cobb between CDs 6, 11, 13, 14.

Julie Bolen expressed the frustration of many when she said, "Since you started having hearings over the summer, we and our fellow Georgians have asked repeatedly for fairness, more opportunities for public input and transparency. . . . You allowed us to provide comments without seeing maps that you never let the public ask you questions and get answers about your processes and your reasoning and drawing the district lines. Katherine Maddux addressed the chairman and suggested that perhaps he could have approached the Black Caucus for information and not the other way around, saying you don't need a person of color to bring to you a group of colors information." She added that his other White members, namely Senator Cowsert's, upbraiding of other minority members of the committee was "really uncomfortable" to witness.

¹¹⁹ <https://vimeo.com/showcase/gasenrandr?page=1>.

Finally, Vasu Abdirahman cautioned that the majority ought to be wary of attempts to mechanically increase or artificially maintain the same percentage of black voters in districts already electing candidates preferred by black voters,” under what he characterized as “the guise of VRA compliance.” Senator Tillery’s subsequent questioning of Mr. Abdirahman revealed what appeared to be a misunderstanding of the language “candidate of choice,” which Sen. Tillery seemed to think this meant a candidate of the voter’s race. Sen. Tillery’s and the other White committee members, save for Sen. Cowsert, were largely silent for the entire process.

The committee next voted down Leader Butler’s plan 5-9, along racial lines, and voted favorably on Chairman Kennedy’s plan along the same lines.

k. November 19, 2021, the Senate Floor – the Congressional Plan

Unsurprisingly, when the majority’s congressional plan came before the full assembly, the Senate floor debate hinged on the same issues as all previous debate and public commentary: Black members argued that the plan packed and cracked Black voters, lacked adequate time for consideration give its eleventh-hour publication and the fact that the vast majority of public input came prior to said publication, and was the result of a closed-door process that flew in the face of relentless public pleas for transparency.¹²⁰

Senator Parent noted the state’s minority population growth, as many legislators and members of the public had before and lamented that the majority’s plan did not reflect that. She recalled that “citizens that spoke up at town halls all summer long, and many of whom came to speak before the redistricting committees, pleaded over and over for a transparent process, and fair maps that would reflect Georgia’s population and political preference.” But, she said, “When the committee hearings commenced, there were members of the committee that spent a great deal of time, challenging members of the public, and even fellow senators on whether feedback was provided or received by the majority party instead of on the substance of the feedback being put forth.”

Senator Parent also criticized the public portal. It was, she said, difficult to find on the legislative website and, as members of the public had pointed out, did not allow for attachments and thus map submissions. Members also wondered, she said, if any of the comments were being considered, as there was no feedback nor

¹²⁰ <https://vimeo.com/georgiastatesenate>.

any guidance given as to how public input would be reviewed, processed, considered, or implemented. In Parent's view, the public feedback process represented "a fake pretense" designed to "mollify us into thinking our concerns are being heard and acted upon."

Senator Harold Jones called the constant comparisons to 2001 and 2011 "foolish" and "not good government." Senator Nikki Merritt noted, "When these maps were dropped Wednesday afternoon, we were not even given them, and now here we are today and the map's not up here. I thought it was gonna be up here." She also reiterated what others had said regarding the identity of the GOP's RPV expert: "We were not given the name or contact information of the individual and the majority party, that the majority party claims was specific that was specially hired by legislative counsel, and was available to both parties, Despite repeated requests." She also questioned the public hearing process, saying, "The majority of members of this committee did not answer questions from the public, who came to speak on behalf of themselves and the community. The only explanation we've been given is that you can't look at any district in a vacuum, that every change affects all the other districts. But what they're saying is that there is a driving force behind all of their changes. But we know that force is preserving a Republican majority. That's the elephant in the room."

Senator Michelle Au and a few others focused on the changes to CD 6. Sen. Au said, "The map for the Georgia six should have been the easiest part of your job." It was "the closest already to ideal population size." However, she said, "the Republican congressional map shifts nearly 50% of the metro Atlanta population out of the sixth district, and brings in a fresh batch of more than 350,000 voters from Republican strongholds as far flung as Cherokee, Forsyth and Dawson counties."

Senators Gail Davenport and Donzella James expressed concern that the General Assembly seemed to specifically be "target[ing] and discriminat[ing] against women of color." Sen. Davenport mentioned the arrests of then Senator Nikema Williams during a protest at the capitol in 2018 and of Rep. Park Cannon in 2020. Sen. James explained that, in her view, "The majority party is targeting a black woman [McBath], one of only two in our delegation, in order to redraw her district to make it safely Republican. That's unacceptable. In the previously passed legislative maps," she added, "Republicans targeted a female senator who happens to also be the only female Asian American senator in Georgia [Michelle Au], and it

can be argued that the voices of thousands of Asian American voters in [Au's] senate district 48 are being silenced.”

Other Black Senators asked why northern Metro Atlanta communities were connected to places like Dawson County and, like others, lamented that this had not been, in their view, a transparent process. Leader Butler argued that the plan “cracks and packs, voters of color, and likely only contains five districts in which voters of color can elect the candidates of their choice. Think about that. In a state that is likely majority minority, only five or 14 districts will likely provide voters of color and opportunity to elect the candidate of their choice.” Like Sens Davenport and James, she said that the map “also targets women and women of color.” In her estimation, “It clearly targets the black female incumbent [McBath] and further, seemed to be drawn in order to “exclude the home of the district's current female incumbent” [Bordeaux].

Senator Butler told the Senate that “not a single member of the public spoke in favor of any map the Senate has passed, or the one before us today, during forty-nine minutes yesterday during Senate committee hearings.” She also noted that the plan was passed out of committee “with the support of nine white men,” and that “not a single member of color, nor any woman voted for this proposal in committee. Indeed, the five votes against this proposal were cast by two black women and three black men.” She asked, “And what will the vote in support of this proposal in this chamber look like today?” And noted that “on the other side of the [political] aisle” were 34 Republican Senators, 32 of whom were men, and 31 of whom were non-Hispanic White men. “These are the individuals today,” she concluded, “who will dictate the political future of a majority minority state.”

Senator Kennedy questioned the good faith in Democrats waiting until, in his view, the last minute to make certain complaints as well as in not offering to make available the information gleaned from the Black Caucus public hearings. Kennedy also responded to the complaints about transparency by indicating that 50 of the 1000 comments in the online portal were added after the original September congressional map was published by Republicans.

The chamber voted 32-21 in favor of the bill, with no Black members voting aye.

1. November 20, 2021, House Legislative and Congressional Reapportionment Committee

The House committee met again on November 20 and took public commentary via Zoom. Members of the public continued the outpouring of concern over moving West Cobb into CD 14. Ashley Whaley said that while Congressman Loudermilk “may not be my choice to fill the seat of the 11th district, he's still someone who I communicate with and can trust to be levelheaded and reasonable.” She argued that being put into Congresswoman Taylor Greene’s district was more akin to “an abusive relative” and she decried what Ms. Taylor Greene stood for “ideologically and morally.” Deborah Johnson added her belief that the Congresswoman had “no empathy for humanity and no sympathy for the dead or the living.”¹²¹

Others spoke about the “reprehensible” changes to CDs 6 and 7. Hasan Arwen of South Forsyth argued, “By extending District Six in the Dawson Cherokee northern Forsyth, you've now taken two completely different areas in demographics, views and issues and placed them into one district and attempt to dilute the voices of one of the fastest growing areas in America in terms of population and diversity, and we do not support it whatsoever.” Julian Fortuna added, “This is a clear gerrymandering attempt intended to disadvantage our incumbent and distance our relationship with someone who represents us very well. The current District Six is a community of interest of suburban voters in the North Atlanta suburbs.” Anna Hall made note of Forsyth’s history of violence and disenfranchisement directed at Black citizens and said that she was unaware of this history until recently. She indicated that North Forsyth continued to bear that legacy while the southern portion of the county had grown more inclusive and progressive.

Marin Iman, a self-described “young Asian American female,” indicated that she was “appalled” at the dilution of minority votes in CD 6 to push out Rep. McBath. Harold Kurtz of the Jewish Community Relations Council concluded public comment by saying, “Although I'm reluctant to use the word racist, the obvious step of the proposed map of congressional districts is to eliminate representative Lucy McBath from the congressional delegation. Placing Dawson and Forsyth counties and Representative [McBath’s] district and taking out her DeKalb portion of the district runs counter to the principle of placing communities of interest together. As a small minority, the Jewish community will also see its interests hurt

¹²¹ <https://www.house.ga.gov/Committees/en-US/CommitteeArchives114.aspx>.

by the changes to District Six, while only 2% or less of the total population of Georgia is Jewish. The Jewish community is a substantial portion of District Six, the changes will dilute already small ability to impact the composition of the congressional delegation. It will hurt our own chances of having representation that reflects our overall needs and desires.”

The bill passed through the committee favorable with a vote. No Black members voted Aye.

m. November 22, 2021, the House Floor – Congressional Plan

When the majority’s congressional plan came before the full House of Representatives on November 22, Black members denounced it in the same terms as those in the Senate had done: in their view it deliberately targeted McBath as a woman of color; it was the culmination of a closed-door process from which they had been shut out, especially by the LCRO and the committee chair; that the map failed to account for the state growing communities of color; that the town hall lineup avoided highly populated counties because of their proportion of communities of color; and the town hall process, in any case, was superficial since no maps were available at that time for the public to review. Minority Leader Beverly said that, despite the continuous pleas dating back to the summer for transparency, “We are fully aware that the process was rushed and secretive with the congressional map released just three hours before public comment was scheduled to begin last week.” He also explained that he and other Democratic Caucus members, when maps were “finally released,” “attempted to meet with the reapportionment office to look more closely at the Republican map. But we were met with a closed door, a locked gate with a detour sign that said, ‘Go see the chair first.’ Why does a member of this body need permission from another party to meet with a nonpartisan office in the General Assembly?”¹²²

Representative Miriam Paris argued that, “At a time when women are already underrepresented, particularly women of color, we should not be drawing maps that target women incumbents to make it harder for them to run and win in new districts. But the map before us today does just exactly that.” Representative Will Boddie spoke to the concerns regarding proportionality and minority population growth and suggested that the map violated the VRA. Rep. Matthew Wilson accused the majority of “intentionally target[ing] incumbent women and voters of color to dilute

¹²² <https://vimeo.com/georgiahouse/albums/page:1/sort:date>.

their power and silence their voices,” and characterized “the sound and fury around making this a fair and transparent process” as “tantamount to lipstick on a pig.”

Senator David Wilkerson spoke out against the cracking of Black voters in Cobb and putting them into CD 14. He reminded the body that Powder Springs had just elected its first Black mayor in 2015, the first Black mayor in Cobb County’s history. He added that he had intervened in a one-person, one-vote lawsuit in 2002 after the General Assembly failed to pass a redistricting plan for the Cobb County Commission and that he and other intervenors had been able to sway the court to draft and enact a plan more favorable to Black voters in the county. He also noted that Austell had elected the county’s second Black mayor in 2019.¹²³ And he noted that citizens of those areas had come before the redistricting committee to speak out against their being moved into overwhelmingly White CD 14 and against their inclusion, as a Metro Atlanta area, in a ‘mountain’ district as well.

Chairman Rich closed debate and addressed the concerns about CD 6, saying that, although CD 6 only needed to add 657 people, “the districts touching it, and those not touching it required movements that the sixth and all other 13 congressional districts could not escape.” She argued that the VRA “doesn’t work like that” in terms of protecting McBath. She explained, “The law requires that we draw maps that equally apportion the population among the districts, and that we give minority communities an opportunity to elect a candidate of their choice. It does not mean,” she said, “that a majority white district like the Sixth, that elects a minority candidate, all of a sudden gets a lifelong protection under the Voting Rights Act for that incumbent. It doesn't work like that. We don't draw maps to protect incumbents, an individual who happens to be sitting in the seat.”

She next addressed, in her words, “the reference to my canceling meetings” and that she was not able to actually work on drawing the maps when, when I ideally would have.” She noted that she had experienced “a personal tragedy” that limited her availability. She explained that she opened up another day of meetings since, at the time, “the majority of the Democrats had not met with me. But she said that she was told that there was not time then. So I apologized,” particularly to “anyone who had waited until the very last minute.” She argued that “this redistricting process has had more transparency than I believe any redistricting probably has in history.” She told the chamber that most of the people who came to speak to the committee had

¹²³ Smith v. Cobb County Board of Elections and Registration, 314 F.Supp.2d 1274, 1283-84 (N.D. Ga., 2002).

been “paid lobbyists for nonpartisan public interest groups” who “said the same thing at every meeting day after day.” She acknowledged that the state had a history of gerrymandering to suppress the black vote but noted that “for the 100-plus years that the Democrats controlled the process, yes, yes, that was true. But for the two cycles, that the Republicans have controlled the process,” added, “that is not true. And guess what? The courts have said, just as much. There is a reason that we don't have a preclearance requirement. Now. This congressional map is fair.”

The House subsequently voted 96-68 in favor of the plan, which was sent to Governor Kemp for his signature.

VII. SENATE FACTOR SIX – RACIAL APPEALS

Senate Factor Six asks whether campaigns have been “characterized by subtle or overt racial appeals.” Campaigns in Georgia in the last several years, including last year, have been characterized by both subtle and overt racial appeals. These appeals have targeted Black, Latinx, and AAPI citizens. In the lead-up to last years elections, 2022, AAPI voters were targeted with mailers accusing the Biden administration of “decid[ing] who gets hired, and who gets fired, according to their skin color.” The ad listed “job requirements” including, “College Degree, 3-5 years experience” [sic] and “Must be Black or Latinx,” and it concluded “Whites and Asians need not apply.”¹²⁴ Television ads that ran at the same time in Georgia, featuring the rhetorical title “Why Don’t Asian Lives Matter to Joe Biden and His Left-Wing Allies?” sought to characterize the Biden administration as “soft on crime” (much as the Bush campaign did vis-à-vis Dukakis in the “Willie Horton” ad) and to blame it for a surge in violent anti-Asian hate crimes, including those committed in Atlanta. The narrator in the ad says, “Joe Biden and his liberal allies have allowed deranged criminals to roam free, putting Asians in grave danger.”¹²⁵

¹²⁴ Amy Qin, “Ads from Conservative Groups Target Asian Americans, *New York Times*, Nov. 7, 2022, <https://www.nytimes.com/live/2022/11/07/us/election-midterm-news>; Chany Chea, “Asian American Voters Targeted by Racist Mailers sent by Conservative Right Wing Organization,” Nov. 4, 2022, Asian American Advocacy Fund, <https://asianamericanadvocacyfund.org/press-releases-i/asian-american-voters-targeted-by-racist-mailers-sent-by-conservative-right-wing-organization>.

¹²⁵ Qin, “Ads from Conservative Groups Target Asian Americans, *New York Times*, Nov. 7, 2022; Robert Mackey, “Bizarre Republican Ad Blames Biden for Anti-Asian Violence Incited by Trump,” *The Intercept*, Oct. 24, 2022, <https://theintercept.com/2022/10/24/anti-asian-ad-trump-citizens-for-sanity/>.

Campaign ads with racial appeals have also targeted Latinx people in Georgia. In a 2018 run for Governor, state Senator Michael Williams ran ads featuring a “Deportation Bus,” which his campaign actually drove around the state, purporting to be chasing down “illegals.” Ads showed the candidate at the back of the bus where, on the windows, it read, “Danger! Murderers, Rapists, Child Molesters, and Other Criminals on Board. Follow Me to Mexico.”¹²⁶ In the same primary, candidate David Perdue accused Democratic candidate Stacy Abrams of “demeaning her own race” and suggested that she “go back where she came from.”¹²⁷ The eventual winner of that campaign, Governor Brian Kemp, ran an ad that featured the candidate standing beside his own pickup truck, which he offered to use to “round up some criminal illegals and take them home myself.”¹²⁸ In the 2022 general election, Governor Kemp ran ads that appeared to deliberately darken the skin tone of his opponent, Abrams, making her appear darker, a common tactic in modern racial appeals in campaigns featuring Black candidates.¹²⁹

Kelly Loeffler, campaigning for the U.S. Senate in 2020, ran ads associating now-Senator Raphael Warnock with Reverend Jeremiah Wright and a speech that he gave over a decade prior which had, itself, been used against President Obama. Loeffler also repeatedly labeled Warnock as a “radical socialist,” harkening back to similar accusations laid on the former pastor of Warnock’s church, Martin Luther King, Jr.¹³⁰ Finally, current congresswoman Marjorie Taylor Greene, who last fall

¹²⁶ Greg Bluestein, “Williams’ ‘deportation bus’ tour hits a few bumps in the road,” *Atlanta Journal Constitution*, May 17, 2018, <https://www.ajc.com/blog/politics/williams-deportation-bus-tour-hits-few-bumps-the-road/JFt6g2o0w0Cdp826cZ6uYM/>.

¹²⁷ Warren Rojas and Taiyler Simone Mitchell, “David Perdue caps his campaign for Georgia governor with a racist remark against Stacey Abrams and a Trump tele-rally,” *Insider*, May 23, 2022, <https://www.businessinsider.com/trump-rallies-for-david-perdue-georgia-primary-brian-kemp-2022-5>.

¹²⁸ Ben Nadler, “Georgia candidate ad says he’ll round up ‘criminal illegals,’” AP News, May 10, 2018, <https://apnews.com/article/a86fb74820d5435392ac49830155ccc7>.

¹²⁹ Doug Richards, “Darkened skin in anti-Abrams ad racially charged, ‘pernicious,’ political analyst says,” *11alive.com*, Sept. 20, 2022, <https://www.11alive.com/article/news/politics/darkened-skin-in-georgia-political-ads-2022/85-3ff31b49-c451-4af8-8033-fd732fe787ae>.

¹³⁰ Michael Arceneaux, “Every Republican should be ashamed of Kelly Loeffler’s failed racist campaign against Raphael Warnock,” *The Independent*, January 6, 2021, <https://www.independent.co.uk/voices/kelly-loeffler-racist-georgia-senate-raphael-warnock-b1783315.html>.

retained her seat, told White voters that millions of illegal immigrants will “replace you,” in reference to a racist conspiracy theory.¹³¹

VIII. CONCLUSION

The court will determine whether or not the General Assembly was motivated by discriminatory intent when it passed the bills in question. As an expert witness and a historian, I can only offer my opinion as to what the public record reveals. In my opinion, it reveals enough for the court to determine that these lines were drawn, in accordance with a very long and robust and relentless history and tradition in the state of Georgia, to deny voters of color their equitable right to participate in the political process. The nature of this report, given my findings, is to present a mosaic of a continuum. What we have seen in the last year or two is an outgrowth of what we have seen for decades, in my opinion. Black citizens, along now with Latinx and AAPI citizens, are being denied an equal seat at the political table as White men, by and large, attempt to hold on to political power. It is telling that Republican legislators have so often evoked 2001, when White men, largely, in the Democratic party attempted to manipulate the size of districts to hold onto power. With the demographic changes in Georgia that citizen after citizen and lawmaker after lawmaker evoked during this process, one cannot help but think the motivation on the other side is much the same, as the electorate has grown more diverse.

Scrutinizing the passage of the laws, in any case, reveals unquestionable historical discrimination, procedural and substantive departures in the legislative process – failing to make time for public comment after maps were published at the last minute, refusal to allow access to the map-drawing process, rushing the process in general despite massive public outcry to the contrary, failing to account for minority population growth, potentially targeting not only minority voters but potential Black female incumbents in drawing lines, packing and cracking Black and other minority voters in order to protect Republican incumbents. Accordingly, I submit this report in support of the court should it find in favor of the Plaintiffs on the claim of discriminatory intent.

I reserve the right to supplement this report if additional facts, testimony, and/or materials that may come to light.

¹³¹ Liz Goodwin, “Racist GOP appeals heat up in final weeks before midterms,” *Washington Post*, Oct. 15, 2022, <https://www.washingtonpost.com/politics/2022/10/15/racist-appeals-heat-up-final-weeks-before-midterms/>.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 13th day of January 2023 at

_____.

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SB 2EX

"Georgia Congressional Redistricting Act"; enact

Current Version

Past Versions

Sponsors

No.	Name	District
1.	Kennedy, John	18th
2.	Cowser, Bill	46th
3.	Dugan, Mike	30th
4.	Gooch, Steve	51st
5.	Burke, Dean	11th
6.	Walker, III, Larry	20th
7.	Miller, Butch	49th

Committees

House Committee:
[Legislative & Congressional Reapportionment](#)
 Senate Committee:
[Reapportionment and Redistricting](#)

First Reader Summary

A BILL to be entitled an Act to provide for the composition and number of congressional districts; to provide for a short title; to provide when such representatives shall take office; to provide for continuation of present congressional districts until a certain time; to provide for related matters; to provide an effective date; to repeal a specific Act; to repeal conflicting laws; and for other purposes.

Status History

Date	Status
12/30/2021	Effective Date
12/30/2021	Act 8EX
12/30/2021	Senate Date Signed by Governor
11/30/2021	Senate Sent to Governor
11/22/2021	House Passed/Adopted
11/22/2021	House Third Readers
11/20/2021	House Committee Favorably Reported
11/20/2021	House Second Readers
11/19/2021	House First Readers
11/19/2021	Senate Passed/Adopted By Substitute
11/19/2021	Senate Third Read

Date	Status
11/18/2021	Senate Read Second Time
11/18/2021	Senate Committee Favorably Reported By Substitute
11/03/2021	Senate Read and Referred
11/02/2021	Senate Hopper

Footnotes

11/18/2021 Notice of intent to file Minority Report; 11/19/2021 Minority Report Filed; 11/22/2021 Structured Rule

Votes

Date	Vote No.	Yea	Nay	NV	Exc
11/19/2021	Senate Vote #23	32	21	0	3
11/22/2021	House Vote #22	96	68	4	12

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SB 1EX

"Georgia Senate Redistricting Act of 2021"; enact

Current Version

Past Versions

Sponsors

No.	Name	District
1.	Kennedy, John	18th
2.	Cowser, Bill	46th
3.	Dugan, Mike	30th
4.	Gooch, Steve	51st
5.	Burke, Dean	11th
6.	Walker, III, Larry	20th
7.	Miller, Butch	49th

Committees

House Committee:

[Legislative & Congressional Reapportionment](#)

Senate Committee:

[Reapportionment and Redistricting](#)

First Reader Summary

A BILL to be entitled an Act to provide for the composition and number of state senatorial districts; to provide for a short title; to provide when members of the Senate elected shall take office; to provide for the continuation of present senatorial districts until a certain time; to provide that the provisions of this Act shall supersede and replace a districting plan and certain changes thereto; to provide for related matters; to provide an effective date; to repeal specific Acts; to repeal conflicting laws; and for other purposes.

Status History

Date	Status
12/30/2021	Effective Date
12/30/2021	Act 7EX
12/30/2021	Senate Date Signed by Governor
11/30/2021	Senate Sent to Governor
11/15/2021	House Passed/Adopted
11/15/2021	House Third Readers
11/12/2021	House Committee Favorably Reported
11/12/2021	House Second Readers
11/10/2021	House First Readers
11/09/2021	Senate Passed/Adopted By Substitute

Date	Status
11/09/2021	Senate Third Read
11/08/2021	Senate Read Second Time
11/08/2021	Senate Committee Favorably Reported By Substitute
11/03/2021	Senate Read and Referred
11/02/2021	Senate Hopper

Footnotes

11/08/21 Notice of Intent to file Minority Report; 11/09/2021 Minority Report Filed; 11/15/2021 Structured Rule

Votes

Date	Vote No.	Yea	Nay	NV	Exc
11/09/2021	Senate Vote #6	21	33	1	1
11/09/2021	Senate Vote #7	34	21	0	1
11/15/2021	House Vote #12	96	70	1	13

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HB 1EX

Georgia House of Representatives Redistricting Act of 2021; enact

Current Version

Past Versions

Sponsors

No.	Name	District
1.	Rich, Bonnie	97th

Sponsored In Senate By:

[Kennedy, John](#)

Committees

House Committee:
[Legislative & Congressional Reapportionment](#)
 Senate Committee:
[Reapportionment and Redistricting](#)

First Reader Summary

A BILL to be entitled an Act to provide for the composition and number of state house districts; to provide for a short title; to provide when members of the House of Representatives elected shall take office; to provide for the continuation of the present representative districts until a certain time; to provide that the provisions of this Act shall supersede and replace a districting plan and certain changes thereto; to provide for related matters; to provide an effective date; to repeal specific Acts; to repeal conflicting laws; and for other purposes.

Status History

Date	Status
12/30/2021	Effective Date
12/30/2021	Act 6EX
12/30/2021	House Date Signed by Governor
11/29/2021	House Sent to Governor
11/12/2021	Senate Passed/Adopted
11/12/2021	Senate Third Read
11/11/2021	Senate Read Second Time
11/11/2021	Senate Committee Favorably Reported
11/10/2021	Senate Read and Referred
11/10/2021	House Immediately Transmitted to Senate
11/10/2021	House Passed/Adopted By Substitute
11/10/2021	House Third Readers
11/09/2021	House Committee Favorably Reported By Substitute
11/04/2021	House Second Readers
11/03/2021	House First Readers

Date	Status
11/03/2021	House Hopper

Footnotes

11/10/2021 Structured Rule; 11/10/2021 Immediately transmitted to Senate

Votes

Date	Vote No.	Yea	Nay	NV	Exc
11/10/2021	House Vote #8	99	79	1	1
11/12/2021	Senate Vote #13	32	21	0	3

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GEORGIA STATE CONFERENCE)	
OF THE NAACP, et al.,)	
)	
Plaintiffs,	)	CASE NO. 1:21-CV-5338-
	)	ELB-SCJ-SDG
v.)	
)	
STATE OF GEORGIA, et al.,)	
)	
Defendants)	
_____)	
)	
COMMON CAUSE, et al.,)	
)	
Plaintiffs,	)	CASE NO. 1:22-CV-00090-
	)	ELB-SCJ-SDG
v.)	
)	
BRAD RAFFENSPERGER,)	
)	
Defendant.)	

**DEFENDANTS' SUPPLEMENTAL RESPONSES AND OBJECTIONS
TO PLAINTIFFS GEORGIA STATE CONFERENCE OF THE
NAACP, GEORGIA COALITION FOR THE PEOPLE'S
AGENDA, INC., & GALEO LATINO COMMUNITY DEVELOPMENT
FUND, INC.'S SECOND SET OF INTERROGATORIES**

Pursuant to Federal Rules of Civil Procedure 26 and 33, Defendants the State of Georgia, Governor Brian Kemp, and Secretary of State Brad Raffensperger hereby supplement their earlier responses to Plaintiffs' Second

Set of Interrogatories as follows, incorporating all prior objections and responses:

RESPONSES TO SPECIFIC INTERROGATORIES

2.

INTERROGATORY No. 2: State the number of days it took YOU to implement each of the following maps, where the time to implement begins on the day the Governor passed each of the maps into law, and the time to implement ends when all of the ballot proofs have been checked for errors.

Map	# of Days to Implement
The Congressional map following the 2000 Census	
The State Senate map following the 2000 Census	
The State House map following the 2000 Census	
The Congressional map following the 2010 Census	
The State Senate map following the 2010 Census	
The State House map following the 2010 Census	
The Congressional map following the 2020 Census	
The State Senate map following the 2020 Census	
The State House map following the 2020 Census	

RESPONSE:

Defendants object this Interrogatory because the Governor does not “pass” maps into law and Defendants are not responsible for all of the steps

to implement redistricting maps following adoption or order of a court imposing a plan. In fact, county election officials are responsible for almost all of those steps. Defendants further object to this request as vague because there were multiple maps for the 2000 and 2010 redistricting cycles.

Defendants also object to this Interrogatory because it is overbroad and unduly burdensome as to which maps Plaintiffs are referring and it is vague as to what is meant by the term “implement.”

Without waiving any objections, the day that the Governor signs legislation is publicly available knowledge. The timeframe to complete ballot proofing is 60 days before an election, but can go up to 49 days before an election depending on the types of corrections or issues that a county identifies in the proofing process. Defendants further state that, in the 2000 and 2010 cycles, different legal landscapes existed and different technology was in use related to the implementation of redistricting plans. The number of days between the Governor signing the plan and 49 days before an election is listed below:

Map	# of Days to Implement
The Congressional map following the 2000 Census	SB 1EX2 signed on October 1, 2001; primary on August 20, 2002. The number of days from signature to 49 days prior to the election (July 2, 2002) is 274 days.
The State Senate map following the 2000 Census	HB 1667 signed on April 12, 2002; primary on

	August 20, 2002. The number of days from signature to 49 days prior to the election (July 2, 2002) is 81 days.
The State House map following the 2000 Census	HB 14 EX2 signed on October 1, 2001; primary on August 20, 2002. The number of days from signature to 49 days prior to the election (July 2, 2002) is 274 days.
The Congressional map following the 2010 Census	HB 20EX signed on September 6, 2011; primary election was July 31, 2012. The number of days from signature to 49 days prior to the election (June 12, 2012) is 280 days.
The State Senate map following the 2010 Census	SB 1EX signed on August 24, 2011; primary election was July 31, 2012. The number of days from signature to 49 days prior to the election (June 12, 2012) is 293 days.
The State House map following the 2010 Census	HB 1EX signed on August 24, 2011; primary election was July 31, 2012. The number of days from signature to 49 days prior to the election (June 12, 2012) is 293 days.
The Congressional map following the 2020 Census	SB 2EX signed on December 30, 2021; primary election was May 24, 2022. The number of days from signature to 49 days prior to the election (April 5, 2022) is 96 days.

The State Senate map following the 2020 Census	SB 1EX signed on December 30, 2021; primary election was May 24, 2022. The number of days from signature to 49 days prior to the election (April 5, 2022) is 96 days.
The State House map following the 2020 Census	HB 1EX signed on December 30, 2021; primary election was May 24, 2022. The number of days from signature to 49 days prior to the election (April 5, 2022) is 96 days.

Respectfully submitted, this 23rd day of December, 2022.

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CERTIFICATE OF SERVICE

I hereby certify that on December 23, 2022, the foregoing were served
by electronic mail on all counsel of record.

/s/Bryan P. Tyson

Bryan P. Tyson

Counsel for Defendants

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

GEORGIA STATE CONFERENCE OF)	No.
NAACP, et al.,	)	1:21-CV-5338-ELB-SCJ-
	)	SDG
Plaintiff,)	
)	
vs.)	
)	
STATE OF GEORGIA, et al.,)	
)	
Defendant.)	
_____)	

VIDEOTAPED 30(b)(6) and 30(b)(1) DEPOSITION OF
 LEGISLATIVE AND CONGRESSIONAL REAPPORTIONMENT OFFICE
 (MS. GINA WRIGHT)
 January 26, 2023
 9:17 a.m.
 18 Capitol Square SW
 Atlanta, Georgia

Reported by: Marcella Daughtry, RPR, RMR
 CA CSR 14315
 GA No. 6595-1471-3597-5424

1 Lawyers' Committee Under Civil Rights Under Law.

2 MR. ENOS: Jason Enos, Lawyers' Committee for
3 Civil Rights Under Law, observing only, not making an
4 appearance.

5 THE VIDEOGRAPHER: Would the court reporter
6 please swear in the witness.

7 MR. STEINER: This is Neil Steiner from
8 Dechert, also on behalf of the common cause.

9 THE REPORTER: Say your name again.

10 MR. STEINER: Neil Steiner.

11 THE REPORTER: Thank you.

12 THE VIDEOGRAPHER: Would the court reporter
13 please swear in the witness. Thank you.

14

15 GINA WRIGHT,

16 called as a witness herein, having been first duly sworn
17 by the shorthand reporter to speak the truth and nothing
18 but the truth, was examined and testified as follows:

19

20 EXAMINATION

21 BY MR. CANTER:

22 Q Good morning, Director Wright.

23 A Good morning.

24 Q What was your role in drawing the Congressional
25 map which Governor Kemp signed into law?

1 A I'm the person who drew it, worked with the
2 technology to draw the map.

3 Q Who at your office did you work with in drawing
4 the Congressional map?

5 A Like staff of the office; is that what you
6 mean?

7 Q Yes, ma'am.

8 A No one else.

9 Q Did Brian Knight help you draw the map?

10 A No.

11 Q Did Dan O'Connor help you draw the map?

12 A No.

13 Q Rob Strangia?

14 A No.

15 Q Bryan Tyson?

16 A He's not staff at my office.

17 Q That's fair.

18 But did Bryan Tyson help you draw the map?

19 A Bryan Tyson consulted as the attorney that was
20 counsel on that.

21 Q Did Brian Knight help you with the map drawing
22 for the Congressional map in any way?

23 A No.

24 Q Did you speak with him about the map?

25 A Not to my recollection.

1 Q Did he see the map ever?

2 A After it was made public.

3 Q How about before it was made public?

4 A I don't recollect him seeing that before then.

5 Q Did you -- did Dan O'Connor work on the
6 Congressional map in any way with you?

7 A No.

8 Q Did Dan O'Connor see the map prior to it being
9 enacted?

10 A No.

11 Q How about prior to it being made public?

12 A No.

13 Q Did you speak with Mr. O'Connor about the map
14 prior to it being made public?

15 A No.

16 Q Outside of your office, did you speak with
17 anyone about the Congressional map?

18 A Yes.

19 Q Who?

20 A Chairmans Kennedy and Chairman Rich, Bryan
21 Tyson, and there may have been others. I don't recall
22 right now.

23 Q Okay. If you don't mind, we're going to walk
24 through these.

25 So you said that you spoke with Chairman

1 Kennedy about the Congressional map?

2 A Yes.

3 Q And this was before it was made public?

4 A Yes.

5 Q Do you recall when you spoke with him?

6 A I'm sure numerous times.

7 Q Approximately how many times?

8 A I couldn't say. I don't know.

9 Q Do you remember the time period?

10 A During the time we worked on the map, after the
11 Census data was out, before the maps were made public.

12 Q Did you ever show him draft maps?

13 A Yes.

14 Q Were you in the room together when you showed
15 him draft maps?

16 A Yes.

17 Q Did he see draft maps on a screen?

18 A Yes.

19 Q When you showed him the draft maps, did you
20 have the ability to make changes to the lines?

21 A Yes.

22 Q Did he ask you to make changes?

23 A I don't recall specifically.

24 Q In general, did he ever ask you to make changes
25 to the lines, not necessarily when you were together?

1 map based off some type of instruction from Chairman
2 Kennedy?

3 A Specifically, no, but the map did take -- there
4 were multiple draft versions, I'm sure you've seen, that
5 were provided during the discovery. So at some point
6 there was feedback from both chairmen on how to make
7 adjustments or to try different things. Specifically, I
8 don't recall what those were or when they said that or
9 what they said, but with multiple drafts, there was
10 definitely input from them on making adjustments.

11 Q You've been talking about Chairman Kennedy.

12 A Uh-huh.

13 Q Would your answer be the same with Chairman
14 Rich?

15 A Yes.

16 Q Was your relationship with regard to Chairman
17 Rich in the development of the Congressional map any
18 different than your relationship with regard to Chairman
19 Kennedy?

20 A No.

21 Q Did you ever meet with both chairmen together?

22 A I think I did, at least once.

23 Q By that, do you -- does that mean that you
24 mostly met with them separately?

25 A It's hard for me to recall. We met so many

1 Q The vast majority?

2 A The vast majority.

3 Q The same question about Chairman Rich. Did you
4 speak with anyone on Chairman Rich's staff about
5 developing the Congressional map?

6 A No.

7 Q You only spoke with Chairman Rich?

8 A Correct.

9 Q Did Chairman Kennedy and Chairman Rich provide
10 final approval on the maps before they were made --
11 sorry.

12 Did Chairman Kennedy and Chairman Rich provide
13 final approval on the Congressional map before that one
14 was made public?

15 A When you say "final approval," what do you
16 mean?

17 Q Right before it was made public.

18 A But what kind of -- what do you mean by "final
19 approval?" Just saying okay or something beyond that?

20 Q At this point just meaning they accepted it,
21 and you needed their acceptance before it was made
22 public?

23 A Yes.

24 Q Do you remember when that was?

25 A I don't remember the specific date.

1 Q Do you remember if that -- I'm going to call it
2 final approval, but I hope you understand what I mean
3 there. Do you remember if that final approval was in
4 person or in some other -- over some other means?

5 A I don't recall specifically when that was
6 given.

7 Q Did you ever e-mail with Chairman Kennedy about
8 the Congressional map?

9 A It's possible that I did. I don't recall
10 anything specific.

11 Q Primarily you were conversing in the ways we
12 talked about before?

13 A Yes.

14 Q Is it the same with Chairman Rich?

15 A Yes.

16 Q E-mail is pretty common. Why didn't you
17 e-mail?

18 A I just prefer to discuss things in person with
19 him.

20 Q Can you elaborate on why you prefer that?

21 A Well, I also know that you don't want to e-mail
22 a lot of documents and have things in e-mail as well. So
23 it's much --

24 Q And why --

25 A -- easier.

1 Q I'm sorry.

2 A You create along a record when you do that, so
3 it's much better to have that conversation in person.

4 Q I understand.

5 Approximately when did you first begin speaking
6 with Chairman Kennedy and Chairman Rich about the
7 Congressional map?

8 A Which Congressional map? The final version?

9 Q The final Congressional map.

10 A I'm not sure of the date that we began talking
11 about that.

12 Q How about, when did you first begin speaking
13 with Chairman Kennedy and Chairman Rich about any draft
14 of the Congressional map?

15 A Chairman Kennedy and I spoke, I think it was
16 in -- Chairman Kennedy and I spoke, I believe in
17 September at some point, regarding the initial
18 Congressional District map draft that was the one that
19 you referred to on our website. I don't recall
20 specifically when a Congressional map discussion came up.
21 The initial focus was to start with the -- the House and
22 Senate, so --

23 Q Yeah.

24 A -- I don't recall when in that process we began
25 to talk about congressional.

1 Q We will get to the House and Senate
2 momentarily.

3 A Yeah.

4 (Court reporter clarification.)

5 Q BY MR. CANTER: You said a moment ago that you
6 spoke with Chairman Kennedy about the September map at
7 some point in September.

8 A Uh-huh.

9 Q Did he draw the September map?

10 A No.

11 Q Why is it called the Duncan-Kennedy map? Does
12 the "Kennedy" refer to Chairman Kennedy?

13 A Yes.

14 Q Then why is it called the Kennedy map?

15 A I didn't call it that. It has a plan name, so
16 I don't know who calls it that.

17 Q Got it.

18 A I think they released a press release, so that
19 may be why they started calling it that way. I'm not
20 sure why --

21 Q Okay. Fair enough.

22 A -- they refer to that. But maps that are from
23 our office have to have legislative sponsorship, so they
24 do have to come through a member of the General Assembly
25 in order to draw one, so...

1 Q Sure. Okay. That makes sense.

2 Did Chairman Kennedy have any opinions about
3 the September map?

4 A Opinions in what way?

5 Q About the composition of the districts in the
6 September map.

7 A Before its creation or after?

8 Q Before its creation.

9 A Yes.

10 Q Do you remember those?

11 A Not well enough to tell you what they were, but
12 did he have them, yes.

13 Q Do you think that if we look at documents for
14 specific districts later, you would be able to recall
15 some of them?

16 A Possibly, because I know there was a document.
17 Like I said, the staff person e-mailed me related to
18 that.

19 Q Just so I understand, a staff member on -- one
20 of Chairman Kennedy's staff members e-mailed you about an
21 early draft of the Congressional map?

22 A Yes.

23 Q And maybe looking at that document would
24 refresh your recollection on what he --

25 A Yes.

1 Q The same with Chairman Rich. Did you speak
2 with Chairman Rich about the early drafts of the
3 Congressional map?

4 A Are you referring to the --

5 Q September version.

6 A No, I did not.

7 Q Did you speak with Chairman Rich about any
8 other drafts of the Congressional map?

9 A The versions that came later on, yes.

10 Q And did she have opinions about them?

11 A I'm sure that she did. I don't recall what
12 they were.

13 Q Do you think looking at documents for specific
14 districts would help refresh your recollection?

15 A Possibly so.

16 Q You mentioned that you also spoke with
17 Mr. Tyson about the Congressional map --

18 A Yes.

19 Q -- is that correct?

20 What did you guys discuss?

21 MR. JAUGSTETTER: I'm going to assert an
22 objection. Mr. Tyson served as counsel to Ms. Wright,
23 and I am -- I'm going to instruct her that she can answer
24 as to topics but not the substance of those
25 conversations.

1 THE WITNESS: Can you repeat that?

2 Q BY MR. CANTER: Yeah. What did you and
3 Mr. Tyson discuss about the Congressional map, keeping in
4 mind your counsel's instruction?

5 A I don't recall specific conversations with the
6 content of those conversations, but he did advise from a
7 legal capacity on the composition of the map, what would
8 be in it.

9 Q When did these conversations occur?

10 A During the same time period as all of this.

11 Q Did you ever speak with Mr. Tyson while also
12 speaking with Chairman Kennedy?

13 A In a group meeting, yes.

14 Q How about, did you ever speak with Mr. Tyson
15 while also speaking with Chairman Rich?

16 A Yes.

17 Q Did you ever speak with all four of them at the
18 same time?

19 A Yes.

20 Q In person?

21 A All three of them? Four?

22 Q Well, four including you. You're right. That
23 was a little funny there.

24 A I was wondering who else was there.

25 Q Yeah, that's right. I apologize.

1 Let me rephrase. Did you ever speak with the
2 three of them at the same time?

3 A Yes.

4 Q And were those conversations ever in person?

5 A I can't say specifically. Possibly so. There
6 was a lot of in and out and meetings in the office, so
7 it's possible that there was one in person.

8 Q Were you looking at maps when you were speaking
9 together?

10 A Yes.

11 Q And that's all of those that --

12 A Pretty much what I do.

13 Q All right. Yeah.

14 Is there anyone else that -- let me back up.
15 You said you drew the Congressional map?

16 A Yes.

17 Q And you drew it with Maptitude?

18 A Yes.

19 Q And you've mentioned speaking with Chairmans
20 Kennedy and Rich and Mr. Tyson about drawing the
21 Congressional map?

22 A Yes.

23 Q Is there anyone else that you spoke with?

24 A So in terms of the group meeting-type thing,
25 there was a meeting that involved the Speaker of the

1 House at the time, Speaker Ralston, and Lieutenant
2 Governor Duncan, and some of their staff.

3 Q Including group conversations, is there anyone
4 else that you spoke with about the Congressional map in
5 addition to Speaker Ralston, Lieutenant Governor Duncan,
6 and their respective staff?

7 A With a specific memory of having that
8 conversation, no, I don't clearly recall having a
9 conversation. That's not to say -- there were a lot of
10 conversations happening, so...

11 Q Were there any -- let me know if this question
12 doesn't make sense, but were there any persons that were
13 representing an organization or an entity that you spoke
14 with? So maybe you weren't speaking with them in their
15 personal capacity, but you were speaking with an entity
16 and they were speaking on the entity's behalf.

17 So if I was speaking with you on behalf of the
18 law firm I work at, is it possible -- and you maybe
19 weren't considering you were talking to me in my
20 individual capacity, but you were talking to me in my
21 sort of capacity representing the entity.

22 A Are you talking about in the formation of that
23 map specifically?

24 Q Regarding the formation of the Congressional
25 map.

1 A No. We would typically defer someone to a
2 legislator to do that if they wanted to bring something
3 to us regarding drawing a map.

4 Q So just to be clear, you never spoke with
5 anyone in that sort of representative capacity?

6 A I don't recall that.

7 Q Anyone in your office?

8 A I couldn't speak to that. I don't recall that
9 they did either. They know that most map drawing that we
10 do comes through a member. We might provide information
11 to some of their staff. I know we did provide
12 information to some of the Democratic Caucus staff
13 members from time to time. But as far as going into the
14 formation of that map, I don't recall any conversations
15 with staff members.

16 (Court reporter clarification.)

17 Q BY MR. CANTER: You mentioned speaking with
18 Speaker Ralston about in relation to drawing the
19 Congressional map?

20 A Yes.

21 Q Do you recall those discussions?

22 A It was a group discussion, so it was a -- a
23 Zoom call meeting.

24 Q When did it occur?

25 A I do not know the date.

1 Q In September?

2 A No.

3 Q In October?

4 A Possibly. October sounds -- maybe.

5 Q Late October?

6 A It had to be in that time window because it's a
7 narrow time window, so maybe October.

8 Q Late October?

9 A I couldn't say specifically.

10 Q Do you recall if it was closer to when the
11 September 27th map was made public or was it closer to
12 when the ultimately enacted map was made public?

13 A I don't think it was close to the
14 September time frame, but I don't know exactly the date.

15 Q Do you remember, what did you guys talk about?

16 A The Congressional map.

17 Q Who was at the meeting?

18 A The -- the names I gave you previously.

19 Q So just to be clear, you had a meeting with --
20 about the Congressional map at some time closer to the
21 enacted map's publication with Chairmans Kennedy, Rich,
22 Mr. Tyson, Speaker Ralston, Lieutenant Governor Duncan,
23 and staff of the Speaker and Lieutenant Governor?

24 A That's correct.

25 Q Do you remember how many staff?

1 A No. I was in my office on a Zoom call and I
2 was not in the actual room with them, so I don't know who
3 all was in the room.

4 Q Was everyone -- maybe you don't know this, but
5 was everyone else in a single room and you were on the
6 video?

7 A I can't say that everyone. Most of them were
8 in a single room. I don't recall there being someone
9 else on the Zoom call, but...

10 Q Was -- was a map projected when that was taking
11 place?

12 A Yes.

13 Q Did you have the ability to change the map's
14 composition when that occurred?

15 A Yes.

16 Q Did anyone on that call ask you to make changes
17 to the lines at that time?

18 A Yes. We worked on adjusting the map during
19 that call.

20 Q It was a working session?

21 A Yes.

22 Q And changes were made?

23 A Yes.

24 Q At the direction of Chairman Ralston?

25 A Speaker Ralston?

1 Q I apologize. Excuse me. At the direction of
2 Speaker Ralston?

3 A Yes. I think there was a group discussion
4 about things. I don't know that it was a single person
5 who said do this, but...

6 Q Somebody on the other side of the Zoom --

7 A Uh-huh.

8 Q -- gave you an instruction about how the
9 composition lines would look and you followed it?

10 A Yes. We would try different scenarios.

11 Q I just want to understand what you are saying.
12 So would it be fair to say that it was difficult to
13 discern who was in charge of that instruction, but it was
14 someone on the other side of the call?

15 A It's not difficult to discern, but there was
16 discussion happening.

17 Q I see.

18 A So as listening to the discussion, I would then
19 attempt to try and create a sample of what it was that
20 they were looking to see.

21 Q So it was a collaborative process amongst the
22 people on that Zoom call?

23 A Yes.

24 Q Are you aware of how the individuals on the
25 Zoom call obtained -- you know, built their opinions

1 about how the map should look?

2 A Can you say that one more time?

3 Q Yeah. So the people on the other side of the
4 Zoom call had opinions about how the Congressional map
5 should look; is that right?

6 A Yeah. Yes.

7 Q Do you know how they developed those opinions?

8 A They did not tell me how they --

9 Q Okay.

10 A -- developed their opinions.

11 Q You just drew the map?

12 A Do the technical work, yes.

13 Q They instructed you on how to do it?

14 A Yes.

15 Q Was there a invitation for this Zoom call? You
16 know how you -- I have Outlook, and sometimes I will get
17 Outlook invi- -- Zoom Outlook invitations.

18 A I can't recall if there was one sent to me or
19 if I created the meeting. I don't remember how that was
20 set up.

21 Q But there is some invitation somewhere?

22 A I would -- yes, somewhere.

23 Q Okay. This might be a tough one, but do you
24 remember what the meeting was called in the invitation?

25 A No, I do not.

1 Q That's fair. I get that.

2 And this meeting, was it just about the
3 Congressional map?

4 A Yes.

5 Q Were there any other meetings like this working
6 session?

7 A Where I was in a room and I was on a Zoom with
8 other people, no, I don't think so.

9 Q Were there any other working sessions about how
10 to draw the lines in the Congressional map?

11 A I don't recall a specific meeting. There were
12 other meetings about drawing the Congressional map, not
13 at the -- not in the same way this one was and not with
14 the same people involved. Maybe smaller scale.

15 Q When you say there were other meetings about
16 drawing the Congressional map, are you referring to the
17 meetings that we talked about before with --

18 A Yes.

19 Q -- the chairmen?

20 A Yes, Chairman Rich, Chairman Kennedy.

21 Q Is this working session the only time you spoke
22 with Speaker Ralston and Lieutenant Governor Duncan about
23 the Congressional map?

24 A To my recollection, it is.

25 Q Is it possible there's another occasion?

1 A I don't think so; not regarding the
2 Congressional map.

3 Q Sure.

4 Director Wright, what was your role in drawing
5 the State Senate map which Governor Kemp signed into law?

6 A I drew that map.

7 Q Did anyone in your office work on drawing the
8 State Senate map with you?

9 A No.

10 Q Did Brian Knight help you draw the map?

11 A No.

12 Q Did you speak with Brian Knight about the map?

13 A No.

14 Q Sorry, let me make sure the question is clear.
15 Did you speak with Brian Knight about drawing
16 the State Senate map?

17 A No.

18 Q Are you aware of whether Mr. Knight had any
19 communications that were ultimately conveyed to you about
20 drawing the State Senate map?

21 A Can you clarify what you mean?

22 Q Mr. Knight talked to someone. He then talked
23 to someone else. That ultimately -- that direction
24 ultimately got to you?

25 A No, I don't believe so.

1 Q Did you talk to Mr. Dan O'Connor about drawing
2 the State Senate map?

3 A No.

4 Q Did he help you in any way with drawing the
5 State Senate map?

6 A No.

7 Q Was he involved in any way in drawing the State
8 Senate map?

9 A No.

10 Q The same question with Mr. Knight. Was he
11 involved in any way with drawing the State Senate map?

12 A No.

13 Q How about Mr. Rob Strangia?

14 A No.

15 Q He wasn't involved in any way with drawing the
16 State Senate map?

17 A No.

18 Q Mr. Strangia is the GIS specialist in your
19 office?

20 A He is the GIS manager, yes.

21 Q And did you use Maptitude to draw the State
22 Senate map?

23 A Yes.

24 Q So if he's the GIS manager -- does Maptitude
25 use GIS technology?

1 A Yes.

2 Q So help me out how Mr. Strangia wasn't involved
3 in drawing the State Senate map if the map was drawn with
4 Maptitude and he's the GIS manager.

5 A So we could probably all have GIS
6 qualifications if we were to do that, because it is all
7 of us who use it. His role is more to oversee
8 downloading software updates.

9 That was -- I don't know what that was.
10 Something popped up.

11 Q Updates and then that sound comes on, yeah.

12 A Yeah.

13 He does a lot of the building some of the like
14 layers that we use. He does work with the GIS program to
15 build, say, the precinct layer and other things like
16 that, but he doesn't actually draw maps at any time.

17 Q Are you drawing a distinction between using the
18 data and the layers to draw the map and preparing the
19 data and the layers for drawing the map?

20 A Yes.

21 Q And Mr. Strangia provided the latter for
22 preparations?

23 A Yes. He works more on that end of -- of our
24 office.

25 Q Did Mr. Knight help Mr. Strangia with that --

1 I'm going to call it the preliminary step of preparing
2 the layers and data?

3 A No, I don't think so.

4 Q Did Mr. O'Connor?

5 A No.

6 Q If I were to ask about the Congressional map
7 and -- sorry, I'm going to rephrase that.

8 Regarding the Congressional map, and keeping in
9 mind this broader notion of preparation of the data and
10 layers and also drawing, were Mr. Knight and Mr. O'Connor
11 involved at all?

12 A Can you say that one more time? I sort of got
13 lost.

14 Q Yeah, sure. Is it also the case that data and
15 layers had to be prepared for drawing the Congressional
16 map?

17 A We use the same layers for all of the maps we
18 draw.

19 Q And Mr. Strangia did that work?

20 A He works on, yes, the GIS building, primarily
21 of our precinct layer and other -- bringing in stuff from
22 the software company, installing, and that kind of thing.

23 Q And that's relevant to the Congressional map?

24 A It's relevant to all the maps.

25 Q Did Mr. Knight and Mr. O'Connor help with that

1 step as well?

2 A No.

3 Q And that's the same for the State Senate map?

4 A Yes.

5 Q Did you -- what role did Mr. Tyson have in
6 drawing the State Senate map?

7 A Mr. Tyson's role was as counsel for the
8 redistricting process, so for all maps it would be the
9 same consulting position.

10 Q You mentioned that you spoke with Chairman
11 Kennedy and Rich and Mr. Tyson and Speaker Ralston and
12 Lieutenant Governor Duncan and the staff about the
13 Congressional map?

14 A Yes.

15 Q And there was no one else you spoke with about
16 the Congressional map?

17 A Unless whoever staff was in that meeting.
18 Specifically, I don't recall speaking with anyone else.

19 Q Is that the same group of people that you spoke
20 with about the State Senate map?

21 A No.

22 Q Who did you speak with about the State Senate
23 map?

24 A Well, the Senate would have been drawn by
25 Chairman Kennedy, and that would be more specific to

1 people on the Senate side of drawing the map. So yes,
2 Bryan Tyson. I'm quite sure Loree Anne Paradise was --
3 was also acting as counsel during that time, too. At one
4 point I believe Senator Gooch was in a meeting that I was
5 in. And there may have been other senators. I don't
6 recall specifically at this point.

7 Q Just to make sure I understand, you just said
8 that you spoke with Chairman Kennedy?

9 A Uh-huh.

10 Q Mr. Tyson, Ms. Paradise, Senator Gooch, and
11 maybe some other senators about drawing the State Senate
12 map?

13 A There were a lot of legislators in and out of
14 our office at that time, so there may have been other
15 senators who came in to look at a part of the map or to
16 offer up what they would like to see in the map.
17 Specifically, I don't recall who that would have been at
18 this point. I would have to --

19 Q Sure.

20 A I don't recall.

21 Q Sure. So the map was drawn in your office?

22 A Yes.

23 Q And senators would come into the office to look
24 at the map?

25 A No. Senator Kennedy was involved in

1 determining when he wanted to discuss that map with other
2 people, show that map to other people, work on it. It
3 was not shown in the work process. I don't know that he
4 gave that to everyone while it was being developed.

5 Q Did -- so Senator -- Chairman Kennedy did see
6 the State Senate map while it was being developed?

7 A Yes.

8 Q But you are not sure whether Chairman Kennedy
9 showed it to any other senators?

10 A I don't know what Chairman Kennedy did during
11 that time. There were not -- I think he would have tried
12 to come to our office. I don't think that there were
13 copies that I know of that were given out, so I think
14 that during the work process it would have been a -- he
15 would have had to come to me, which is why I don't
16 remember there being other folks.

17 Q You held onto the map in your office?

18 A Yes.

19 Q And you didn't publish it until it was --

20 A Until it was ready to be published.

21 Q Is that the same with the Congressional map?

22 A Yes.

23 Q And the same with the House map?

24 A Yes.

25 Q And you know that Chairman Kennedy saw the map

1 because you were there when he saw it?

2 A Yes.

3 Q But you didn't -- you are not aware of any
4 other senators seeing the map?

5 A Like I said, I know that Senator Gooch came in
6 for a meeting. I recall that one. I'm trying to think
7 through all the different --

8 Q Yeah.

9 A -- interactions that I had. I think Senator
10 Walker came in at one point. This was near the -- before
11 they made the map public.

12 Q Are you drawing a distinction between coming
13 into your office to discuss the map and coming into your
14 office to see the map?

15 A Kind of both things happened at the same time.

16 Q Okay. So when Senator Gooch came into your
17 office --

18 A Uh-huh.

19 Q -- did he see the map?

20 A Yes.

21 Q And you guys talked about it?

22 A Yes.

23 Q The same with Senator Walker?

24 A Yes.

25 Q And the same with potentially these other

1 senators --

2 A Right.

3 Q -- who came to your office?

4 A And then Senator Cowser, I think came at one
5 point, too. I'm trying -- they are all --

6 Q Yeah.

7 A -- triggering memories.

8 Q Totally get it.

9 A Yeah.

10 Q And these senators came into your office after
11 being provided permission from Senator Kennedy?

12 A Senator Kennedy would have been with them.

13 Q The senators only came into your office to look
14 at the maps if Chairman Kennedy was there as well?

15 A If he was there or had given permission, yes.
16 I would not have shown that -- we don't show any map that
17 a legislator draws without explicit permission from them
18 or them being present to show that to whoever they
19 choose. That's with any kind of map.

20 Q And who is the "them" you are referring to
21 here?

22 A Back me up.

23 Q Yeah, yeah. So you said -- I understand you
24 said that you don't show maps to any particular
25 senators --

1 A Right.

2 Q -- unless they give you permission to show maps
3 to those particular senators?

4 A Right. A map would have an author. A map
5 would have -- it would be their -- their map. So if --
6 to contrast that, when Aleda Butler submitted a map to
7 our office and we worked with her on fine-tuning that, we
8 didn't show that to any other senators unless she had
9 said, you may show this to Senator Parent or some other
10 senator.

11 We wouldn't do that with any map that any
12 member works on, unless they either give explicit
13 permission to do that or they're there with us and say,
14 show them this map.

15 Q Got it. Thank you. That's helpful.

16 And when senators were looking at the map, was
17 that in your office?

18 A Yes.

19 Q On a computer screen?

20 A Yes.

21 Q And did you have the ability to change map
22 lines when you were doing that?

23 A Yes.

24 Q Did you ever change map lines when you were
25 doing that?

1 A Yes.

2 Q With regards to the Senate map, how many times
3 did you meet with Chairman Kennedy?

4 A I do not know.

5 Q Over 20?

6 A I don't know.

7 Q Over a hundred?

8 A I don't think it was over a hundred, but a
9 significant number.

10 Q Around 50?

11 A I can't say specifically.

12 Q Okay. But we're pretty sure between 20 and a
13 hundred?

14 A It was a lot.

15 Q Okay. Do you remember when you met with him?

16 A During the time period we were drawing these
17 maps.

18 Q When was the earliest occasion that you met
19 with Chairman Kennedy about the State Senate map?

20 A I could not -- I don't know.

21 Q August?

22 A We didn't have data until August the 12th, so
23 any preliminary discussion before that would have been
24 not helpful because we wouldn't know where the population
25 growth, what the map is gonna look like, where -- where

1 we needed to make adjustments.

2 So it would be after we got Census data. I am
3 sure I had spoken with him before that, of course, as our
4 chairman; but regarding the map specifically, we would
5 have had to have Census data to discuss the map.

6 Q When was the latest date that you spoke with
7 Chairman Kennedy about the Senate map that was ultimately
8 enacted by Governor Kemp?

9 (Court reporter clarification.)

10 THE WITNESS: I don't remember a specific date.

11 Q BY MR. CANTER: Was it pretty close to the date
12 that the map was published?

13 A I spoke with both chairmen so frequently during
14 that time period, I can't say for sure.

15 Q Almost every day?

16 A A good bit.

17 Q Yeah, yeah.

18 When you were speaking with Chairman Kennedy
19 about the State Senate map, was it also mostly over in
20 person, phone or Zoom?

21 A Yes.

22 Q Any other ways?

23 A No.

24 Q Did you ever e-mail with him?

25 A I may have e-mailed him something at some

1 point, but I don't recall a specific e-mail with him.

2 Q The same reasons why you didn't really e-mail
3 the Congressional map?

4 A Yes.

5 Q Okay. Do you -- did -- I think you told me
6 that Chairman Kennedy provided you with specific
7 instructions about how the lines of the map should be
8 drawn?

9 A Say that one more time. I'm sorry.

10 Q Sure.

11 Did Chairman Kennedy provide you with specific
12 instructions about how the lines of the State Senate map
13 should be drawn?

14 A No.

15 Q Did you receive any specific instructions about
16 how the lines of the State Senate map should be drawn?

17 A Initially, no.

18 Q How did you make a determination about how to
19 draw the lines for the State Senate map?

20 A That was a -- basically a -- call it a blind
21 map, but it was a map, just a starting point map to
22 address the population changes in the state and make
23 adjustments to the districts as they were, to try and
24 have a starting point, a discussion map to -- to start
25 with.

1 Q So just so I understand, population data
2 becomes available via the Census?

3 A Uh-huh.

4 Q You look at the population data?

5 A Uh-huh.

6 Q And then you create a blind map?

7 A Uh-huh.

8 Q Do you remember when you created the blind map?

9 A I do not.

10 Q August or September?

11 A It may have been October.

12 Q Okay.

13 A I'm not sure.

14 Q That's kind of late.

15 A It is.

16 Q Do you know why it was so late?

17 A I don't.

18 Q Were you instructed not to work on the map
19 until October?

20 A I was not instructed.

21 Q You were not instructed to work on the map?

22 A I was not given any instruction at that point.

23 Q I see.

24 A I'm not heard.

25 Q You only work on maps when people tell you to

1 work on maps?

2 A Correct. We work for the legislature, so we do
3 these things at their request.

4 Q Is the LCRO part of the legislature?

5 A We are a joint office of the General Assembly,
6 so we serve the House and the Senate as the staff office.

7 Sorry. I will slow down.

8 Q And the LCRO only draws maps when instructed to
9 do so by a member of the General Assembly?

10 A Correct, a member or at the sponsorship of a
11 member if it's something for a -- a local jurisdiction or
12 something.

13 Q And you received no instruction to draw a State
14 Senate map until maybe even October?

15 A Correct.

16 Q Do you know why?

17 A I do not.

18 Q Who was the person that ultimately instructed
19 you to start drawing the State Senate map?

20 A It would have been Chairman Kennedy.

21 Q Was it in person?

22 A I don't recall.

23 Q If I'm understanding you, you started the
24 Congressional map before starting the State Senate map?

25 A I drew the initial Congressional map you

1 referred to earlier, the --

2 Q Duncan-Kennedy?

3 A That was drawn, yes, before the House or Senate
4 draft was drawn.

5 Q Was the first draft of the House map also drawn
6 around the same time as the first draft of the Senate
7 map?

8 A Yes.

9 Q So you are instructed to draw a Senate map
10 sometime around October, and was your instruction to draw
11 a -- what you called blind map?

12 A Yes, it was a -- basically, to use the
13 population data and draw a balanced map that would
14 balance the population in the district so they would have
15 a place to start with discussion.

16 Q Were you instructed to comply with any
17 guidelines or principles when drawing the blind map?

18 A Yes.

19 Q What were they?

20 A The committee guidelines that they had for both
21 committees spelled out the specifics of what the
22 committee would use, so those were the things taken into
23 account.

24 Q Did you take them into account?

25 A Yes.

1 Q Why did Chairman Kennedy want a blind map to
2 start off with?

3 A It's a place to begin looking at the changes in
4 the map. Where districts have grown, you need to lose
5 population and then figure out from there what -- what
6 would be places to reflect the changes that were
7 necessary, where -- where did -- for instance, in south
8 Georgia there was a loss in population, so there was a
9 notion that there was going to be a district from south
10 Georgia that would not be there; we'd have to move it.
11 So taking something like that to visually show what that
12 would look like.

13 Q Do you believe that your blind map complied
14 with the guidelines and the principles that we were just
15 talking about?

16 A Yes, but we do submit any of those things to
17 the counsel that was reviewing that for legal analysis,
18 the maps that were considered.

19 Q Just you did submit the blind map to legal
20 counsel for analysis?

21 A Yes. They had access to view it.

22 Q Did -- I might get an instruction here. Did
23 counsel direct you -- inform you whether the blind map
24 complied with the Voting Rights Act in the U.S.
25 Constitution?

1 MR. JAUGSTETTER: I'm going to object on the
2 basis of attorney-client privilege and instruct the
3 witness not to answer that question.

4 Q BY MR. CANTER: But you did complete an
5 analysis of whether the blind map complied with
6 guidelines, and I'll call them traditional districting
7 principles?

8 A When you say "complete an analysis," what do
9 you mean by that?

10 Q When you were drawing the blind map, did you
11 keep the guidelines and traditional districting
12 principles in mind?

13 A Yes.

14 Q Do you believe that your blind map effectively
15 balances changes in population, the guidelines, and the
16 traditional districting principles?

17 A Yes.

18 Q Was the blind map ever made public?

19 A No.

20 Q The blind map was a starting point?

21 A Yes.

22 Q And then Chairman Kennedy saw it, and what --
23 and you said that he didn't direct you to make changes to
24 it?

25 A I don't know that I said that.

1 Q Maybe I misunderstood you.

2 So you made the blind map to start, and then
3 you showed it to Chairman Kennedy?

4 A Uh-huh.

5 Q And what happened?

6 A I'm not sure who he discussed that map with,
7 but as there were things to change in the map based on
8 his conversations, then we would look at making
9 adjustments to particular areas someone, you know,
10 represented or wanted to continue to represent things to
11 try and input into the map at that point.

12 Q Did Chairman Kennedy receive a copy of the
13 blind map that -- you know, over e-mail or something?
14 I'm trying to get at how he might have talked about the
15 blind map with others but in specific ways without you
16 being in the room.

17 A I don't recall printing anything or creating
18 any PDFs of it. He may have just -- there I don't
19 recall. He may have looked at it, known which -- who to
20 talk to and -- I don't know.

21 Q Did he take notes about the blind map?

22 A I don't recall.

23 Q Do you recall if any of his staff took notes
24 about the blind map?

25 A I don't recall his staff ever being in the

1 room.

2 Q You only recall Chairman Kennedy ever seeing
3 the blind map?

4 A I think it's possible Bryan Tyson saw the blind
5 map.

6 Q In his role as counsel?

7 A Yes.

8 Q In any other role?

9 A That was his role.

10 Q Okay. But Mr. Tyson had no other role with
11 regards to drawing any of the maps?

12 A I'm not sure what you mean. He was serving as
13 counsel.

14 Q People can serve as counsel and also do things,
15 have opinions that aren't relevant to their service as
16 counsel.

17 A To my knowledge, his role was as counsel, so
18 that's what he served as.

19 Q I understand that that was his role, but did he
20 take any action that wasn't related to his role and
21 service as counsel?

22 A Not that I know of.

23 Q What kind of actions did Mr. Tyson take?

24 A You can ask him what kind of actions he took.

25 MR. JAUGSTETTER: I'm gonna -- I'm gonna assert

1 you about Mr. Tyson's role?

2 A I believe so.

3 Q So Mr. Kennedy -- pardon me. Chairman Kennedy
4 sees the blind map, and then what happens? Does he
5 direct you to make changes to it?

6 A That being a starting point map, then yes, we
7 began to work within it to make adjustments for whatever
8 requests people wanted to try and modify the map, however
9 he wanted to try to best accommodate requests and things
10 that were brought to him.

11 Q And you had a lot of conversations with him?

12 A Yes.

13 Q A lot of conversations about modifying the
14 blind map?

15 A We did have conversations about modifying it,
16 yes.

17 Q Were those conversations ever in person?

18 A Yes.

19 Q Were they mostly in person?

20 A Yes.

21 Q When you had those conversations, was the map
22 projected onto a screen?

23 A Not necessarily.

24 Q But sometimes?

25 A Sometimes.

1 Q When you had the conversations when the map was
2 projected onto the screen, was it within Maptitude?

3 A If I'm looking at the map, it would have been
4 in Maptitude.

5 Q Okay. And you know how to use Maptitude?

6 A Yes.

7 Q Was data projected onto the screen?

8 A Sometimes it may have been. Not all the time.

9 Q Why would you look at a map without any data
10 related to it?

11 A You are just reviewing the geography. You
12 wouldn't necessarily be looking at the data. You are
13 looking at the composition of districts, the counties,
14 precincts and things.

15 Q When data was projected onto the screen, what
16 type of data was it?

17 A Typically, our data would include the total
18 population, the deviation, the percent deviation, voting
19 age population. Most of the fields that you see on our
20 population summary reports would be also included on
21 there, as well as political data.

22 Q I recall that there's data related to the race
23 of the population on those summary reports.

24 A Correct.

25 Q Was data related to the race of the populations

1 projected onto the screen?

2 A It could have been sometimes.

3 Q Most of the time?

4 A Most of the time. We usually projected all the
5 race data that we would use on the reports, as well as
6 the political data that they were reviewing. So both
7 together.

8 Q Was that data relevant to you making -- I'll
9 rephrase.

10 Did Chairman Kennedy consider that data when
11 making instructions about how to draw the lines?

12 A I would assume he did. I don't know what
13 Chairman Kennedy considered.

14 Q Was it sort of a collaborative conversation or
15 was it really just Chairman Kennedy giving you
16 instructions and you following them?

17 A Can you explain what you mean by that?

18 Q Yeah. I can imagine that Chairman Kennedy told
19 you you need to move this line in southeast Georgia and
20 then you did it. Or Chairman Kennedy could say, what
21 would happen if I moved -- you moved this line in
22 southeast Georgia? You could say, well, Chairman, this
23 or that.

24 A I'd say it's more like the second scenario.

25 Q Okay. What type of questions did he ask you?

1 A I don't specifically recall.

2 Q Generally, what type of questions?

3 A Like what you said, what if we moved this here
4 or if this particular senator has -- you know, has a
5 long-standing relationship with this county and would
6 like to maintain that in their district, could we put
7 that back, and if we do that, what would we -- how would
8 we accommodate. Those types of things.

9 Q Do you recall if he ever asked questions about
10 how changes in the lines would affect the racial
11 composition of members of the districts?

12 A I don't recall specific conversations about
13 that, but again, he would have taken that to counsel if
14 he had discussions about whether or not what the
15 percentage of those in the districts were.

16 Q When other senators came to speak about the
17 blind map --

18 A Uh-huh.

19 Q -- would they see the blind map projected onto
20 a screen, too?

21 A Yes.

22 Q But sometimes there had already been changes
23 made?

24 A I can't say. The process is fluid.

25 Q Sure. At what point was there a determination

1 that the blind map was complete and ready for
2 publication?

3 A I don't recall a specific date.

4 Q Yeah. You know what, and that was not -- that
5 was not properly stated.

6 You were making changes to the blind map?

7 A Right. The initial draft, yes.

8 Q When did you stop making changes to the initial
9 draft?

10 A When they determined that the map was where
11 they wanted it to be to go forward. I don't remember the
12 date.

13 Q And was the completion of that map the first
14 map -- first Senate map published on your website?

15 A Yes.

16 Q So it wasn't the ultimately -- that map wasn't
17 the ultimately enacted map?

18 A Correct. There was a draft that came out.
19 Then they made some additional adjustments, and then the
20 final version came out, I believe.

21 Q Did you make the changes and the adjustments?

22 A Yes.

23 Q When those changes and adjustments were made,
24 was it also at the -- you know, at the direction of the
25 same people we're talking about right now, Chairman

1 Kennedy, Mr. Tyson and Ms. Paradise and other senators?

2 A The changes, I think, came at the request of
3 the senator, and then Chairman Kennedy authorized to try
4 and see if we could do what he had requested.

5 Q At the request of the senator, what senator are
6 you referring to?

7 A Senator Rhett.

8 Q So there was the map that was published first?

9 A Uh-huh.

10 Q And then Senator Rhett requested changes?

11 A Uh-huh.

12 Q And as a consequence of that, you made changes?

13 A Yes.

14 Q And then another map was published?

15 A Yes.

16 Q Were there any other changes requested?

17 A I cannot recall. That one stands out. I
18 remember doing that one. I don't recall if there were
19 others in that draft.

20 Q Why does it stand out?

21 A I have drawn a lot of maps, so...

22 Q Yeah. So why does that one stand out?

23 A Because in committee, I remember there was
24 discussion over the change, that that was in the
25 committee meeting, so that one sticks out. That may have

1 been the only one that went into that final version
2 because other -- other changes might have gone into the
3 other version, the first presented version before we got
4 to that, but there were members, you know, putting
5 changes in.

6 That one just jumps out at me. That may have
7 been the only one that went into that last version.

8 Q Did you speak with anyone else in addition to
9 the people you referred to for any reason about the State
10 Senate map?

11 A I probably spoke with a lot of senators
12 regarding that map.

13 Q Right. Right. Okay.

14 A So I don't want to list all 56 of the
15 members --

16 Q Yeah.

17 A -- that were here then, but I spoke with a lot
18 of members at that point, from the time -- especially
19 when the map was made public, those that requested
20 things.

21 Q Did you speak with anyone in the House about
22 drawing the State Senate map?

23 A I don't think so.

24 Q Did you speak with anyone outside of the
25 General Assembly about drawing the State Senate map?

1 A Other than counsel that -- I don't know if you
2 consider that part of the General Assembly or not. I
3 don't recall.

4 Q You don't recall or you didn't?

5 A I don't believe that I did.

6 Q Okay. And that includes not speaking with
7 anyone that's representing an organization or an entity?

8 A Right.

9 Q Yeah. I'm just trying to draw a distinction
10 between speaking with persons and I spoke with this
11 group.

12 A Well, we do get a lot of requests for
13 information, so it's -- it's kind of hard to say. As far
14 as what we were working on in the map during the process
15 of drawing the map is a little different, because that
16 was all after the public hearings, so we had already
17 taken feedback through the public hearings. The comment
18 portal was available during that time. So there was
19 information that was there. I wouldn't have time to
20 spend a lot of time reading them, but I did do it
21 sometimes, and so you're trying to incorporate a lot of
22 input. So I didn't speak with those people but heard
23 from a lot of groups and people.

24 Q You got a lot of input on what the
25 Congressional State Senate and State House maps should

1 look like?

2 A There was a lot of input everywhere.

3 Q And it was hard to look at all of it?

4 A Yes.

5 Q Right. You weren't able to look at all of it?

6 A I looked at a lot of it but not all of it.

7 Q Yeah. There was a lot you didn't look at?

8 A I don't know that I'd say there was a lot I
9 didn't look at.

10 Q Okay.

11 A But I did watch or attend every public hearing.

12 Q Okay. We have just been talking about the
13 State Senate map, and you described a blind -- I'm going
14 to call it a blind map process. Does that make sense if
15 I said it that way?

16 A Sure.

17 Q Yeah. I should back up. What was your role in
18 drawing the State House map which Governor Kemp signed
19 into law?

20 A It was the same as the House, or as the Senate
21 and Congressional.

22 Q Okay. And did you use the same blind map
23 process to draw the State House map?

24 A Yes.

25 Q Was Brian Knight involved at all in drawing the

1 State House map?

2 A He did meet with some members, yes.

3 Q Was Mr. O'Connor involved at all in drawing the
4 State House map?

5 A No.

6 Q Did you ever communicate with him about drawing
7 the State House map?

8 A No.

9 Q Did he ever reflect any opinions to you about
10 drawing the State House map?

11 A No.

12 Q Are you aware of him ever talking to anyone
13 about the State House map?

14 A I'm sure he talked to people after it was made
15 public, but...

16 Q How about before it was made public?

17 A No.

18 Q I understand that Mr. Strangia was involved in
19 the preparation of the data and the layers for the State
20 House map.

21 A For all of them.

22 Q Right. Was he involved in the drawing of the
23 State House map at all?

24 A No.

25 Q Was Mr. Tyson's role the same with regards to

1 the State House map as the other maps?

2 A Yes.

3 Q Was Ms. Paradise involved -- was Ms. Paradise
4 also counsel?

5 A Yes.

6 Q With regards to drawing the State House map,
7 right?

8 A Yes.

9 Q Did you speak with anyone in the General
10 Assembly about drawing the State House map?

11 A Yes.

12 Q Whom in the General Assembly?

13 A In the House, you mean?

14 Q Yeah, I'm sorry. Whom in the House did you
15 speak about --

16 A Yes.

17 Q -- drawing the State House map? Thank you.

18 A Chairman Rich. We did have a meeting with
19 Speaker Ralston regarding the House map, and there were
20 House members, House leadership in that meeting.

21 Q Do you remember -- oh, I'm sorry. I didn't
22 mean to interrupt.

23 A Go ahead. I'm still...

24 Q Yeah. Do you remember what House leadership
25 was involved in that meeting?

1 A Yes. The Speaker Pro-Tem Jones was in that
2 meeting. I'm trying to think. Representative Hatchett,
3 I think was in there. Representative Burns, who is now
4 Speaker Burns. And I can't remember. Mr. Tyson was in
5 that meeting.

6 Q Are you referring -- you've mentioned
7 Representative Rich, Speaker Ralston, House leadership,
8 Representatives Hatchett and Burns, Speaker Pro-Tem,
9 Mr. Tyson. Was there a single meeting that you had with
10 them about the State House map?

11 A I remember a single meeting. I don't
12 remember -- there were not multiple meetings.

13 Q Okay. Was it another working session, similar
14 to the working session you had regarding the State Senate
15 map?

16 A I don't know that it was a working session in
17 the same capacity. That was -- it was not -- I was not
18 over Zoom during that meeting, so it was a little
19 different. I was on a laptop, so it was a little bit --
20 it wasn't quite the same scenario, but just to review the
21 map and look at particular areas.

22 Q Was -- when you say you were on a laptop, does
23 that mean you were there in person with them?

24 A Yes.

25 Q And you had a laptop?

1 A Yes.

2 Q Could the other members of this meeting see the
3 map?

4 A Somewhat. Not easily, but some.

5 Q Did they have to look over your shoulder to
6 look at the laptop?

7 A They did not look over my shoulder. They more
8 asked questions and I could answer questions.

9 Q So during this meeting, they only asked you
10 questions and you answered them about the composition of
11 the map?

12 (Court reporter clarification.)

13 THE WITNESS: Yes. That's my recollection of
14 the map.

15 Q BY MR. CANTER: Was that meeting in this
16 building?

17 A No.

18 Q Where did the meeting -- where was that meeting
19 held?

20 A In the Capitol.

21 Q Do you remember when that meeting occurred?

22 A I do not. That same time frame.

23 Q Late, late -- around October?

24 A Probably October.

25 Q Yeah. But the blind House map was drawn in

1 early October?

2 A I don't remember the dates that it was drawn.
3 It would have been in October.

4 Q And this meeting occurred after the blind map
5 was drawn?

6 A Yes.

7 Q Because it was a different type of word
8 session, but it was a discussion --

9 A A discussion.

10 Q -- about the lines after there had been more
11 drafts prepared?

12 A I don't recall when it fell in the making
13 changes to the draft, or if that was before we made
14 changes or if it was after. I would assume it was closer
15 to being after, but I don't recall.

16 Q How long was this meeting?

17 A Not very long.

18 Q An hour?

19 A Maybe an hour.

20 Q How long was the working session with the --
21 regarding the State Senate map?

22 A There wasn't quite the same type of a meeting
23 for the State Senate map, so I don't --

24 Q So --

25 A I don't know what meeting to --

1 Q Well, so -- sure. Let me rephrase.

2 You referred to having a working session with
3 Chairman Kennedy, Mr. Tyson, Ms. Paradise about the State
4 Senate map. Am I recalling that?

5 A Right. Well, we would have had several
6 meetings where we discussed the map. There wasn't one
7 session where we had other multiple senators involved at
8 the same time that I recall. So the Senate was a little
9 different in that respect.

10 Q You met with Chairman Rich regarding the State
11 Senate map?

12 A Yes.

13 Q Was it the same type of process that you had
14 with Senator Kennedy, where you had a blind map and then
15 you reviewed it with her?

16 A Yes.

17 Q And then she, as the sponsor of the map, would
18 either direct you to make changes or bring in other
19 members of the House who would make directions for
20 changes?

21 A Yes. It was my understanding both chairmen
22 were meeting with members and had opened up office time
23 and meeting time to take input from the members about the
24 map and their districts. And I don't know how many
25 members each of them met with, but they did have those

1 meetings and that frame of reference. So that when we
2 met together, they could use those meetings and the input
3 they received from members to make adjustments if the --
4 if the draft didn't look -- if they felt like this member
5 had requested this and we weren't -- if we could
6 accommodate things, we would try to accommodate those
7 things.

8 Q But you weren't involved in those meetings?

9 A I was not.

10 Q Was anyone in your office involved in those
11 meetings?

12 A No.

13 Q You just knew they existed?

14 A Right.

15 Q Would Chairman Rich mention them to you?

16 A Yes.

17 Q Sometimes specific meetings?

18 A Maybe.

19 Q Yeah.

20 We've been going about an hour, I think. Would
21 this be a good time to maybe take a 15-minute break?

22 A I'm -- whatever.

23 THE WITNESS: Patrick?

24 MR. JAUGSTETTER: Sure.

25 MR. CANTER: Thank you.

1 received directions from -- sorry, I'll rephrase.

2 You mentioned earlier that with regards to the
3 Senate map, you received directions on how to draw the
4 lines from -- either directly from Chairman Kennedy or
5 through Chairman Kennedy from other senators. Is that
6 basically right?

7 A Yes.

8 Q And it was the same process with the State
9 House map but with Chairman Rich, not Chairman Kennedy?

10 A Yes.

11 Q What was your process for receiving directions
12 on how to change the lines with regards to the
13 Congressional map?

14 A Well, I think we talked about the meeting,
15 jointly meeting with them, so same type of thing. Input
16 from whatever they had, conversations or whatnot. There
17 were also considerations, of course, from things we had
18 heard from public hearings and other things to try and
19 incorporate into those maps, so those decisions were made
20 in coordination with all of that together.

21 Q Did you use a blind map for the Congressional
22 map -- sorry, let me rephrase.

23 A Yeah.

24 Q You mentioned -- that's fair.

25 You had mentioned creating a blind Senate map

1 Q Stepping back for one second then, do you know
2 if Mr. Tyson was counsel for the LCRO in relation to
3 drawing the three statewide maps?

4 A I don't know that the office had counsel that
5 was hired specifically for the office.

6 Q So the LCRO had no counsel in relation to
7 drawing the three statewide maps?

8 A So the -- we work on behalf of our chairman and
9 the chairman under who we report to in those particular
10 instances, or the members, any member who wants to work
11 with us. My understanding was Mr. Tyson was hired on as
12 counsel for that redistricting process through the
13 General Assembly, so therefore, those members would have
14 had him as their counsel. And indirectly through that
15 relationship, then we would have also had access.

16 Does that make sense?

17 Q It does, yeah.

18 Do you -- and do you have any more specific
19 details about, you know, who went through the process of
20 retaining Mr. Tyson?

21 A I do not know anything about that process.

22 Q The LCRO completed a technical review of the
23 three statewide maps, right?

24 A We don't technically review maps. We draw
25 ourselves.

1 Q Okay.

2 A In the process by which we do other technical
3 reviews, if that makes sense.

4 Q Okay. How about this, when you were drawing
5 the three statewide maps --

6 A Uh-huh.

7 Q -- did you consider whether there were precinct
8 splits present?

9 A Yes.

10 Q And by "precinct splits," do you mean state
11 precincts as opposed to VTDs released by the Census
12 Bureau?

13 A So to clarify, the VTDs that are released by
14 the Census Bureau in Georgia do match our precinct layer.
15 That layer is built based on our 20 -- and this current
16 one is built off our 2018 precinct layer, so it does
17 correspond to the same.

18 Voting precincts know we had a 2020 precinct
19 layer that we had compiled following the 2020 election,
20 but that was not completed in time to submit to the
21 Census Bureau to be used as a VTD layer. So we kind of
22 had both layers to use. In most cases -- a lot of the
23 cases they were the same in certain counties, unless
24 there had been a change in their precincts from 2018 to
25 2020.

1 Q So when you say you determined whether there
2 were precinct splits, you mean both state precinct splits
3 and VTD splits?

4 A So it would really be irrelevant with the VTD
5 splits, because those precincts were two years old. So
6 in counties where precincts are the same, then that would
7 be relevant. In counties that have made changes to their
8 precincts, complying with the newer precinct layer would
9 be the more logical choice because that's the current
10 precincts that they were operating under.

11 Q What was more important -- so I understand,
12 what was more important to you was whether there were
13 splits in the state precincts?

14 A Yes, but I did look at both, obviously.
15 Reports that Maptitude runs are gonna base off the VTD,
16 so...

17 Q But given the -- given that the VTDs might not
18 have been up to date, the state precincts were more
19 important in your sort of overall determination?

20 A Yes.

21 Q Okay.

22 A But they were not also on the 2020 geography
23 because they were drawn before we had the new data from
24 the Census. So it was also another issue where we
25 couldn't -- sometimes there was overlap in the geography.

1 This is a GIS situation, so it makes it a little bit more
2 challenging then to have that built off of an older
3 geographic file.

4 Q Even given the challenges, were you able to
5 make assessments of whether there were state precinct
6 splits?

7 A Yes.

8 Q Did you make assessments?

9 A Yes. We worked with both files.

10 Q Did you analyze whether there were city splits?

11 A I don't know that I did too much analysis on
12 that, but I did keep that in mind as working on -- on the
13 plans.

14 Q More important was the question of precinct
15 splits than city splits?

16 A Yes.

17 Q How about municipality splits?

18 A A city and a municipality are the same thing.

19 Q Sometimes in California they are a little
20 different.

21 A Not here.

22 Q Fair enough.

23 How about county splits?

24 A Yes.

25 Q And would county splits have been more

1 important than city splits?

2 A Yes.

3 Q How about comparing county splits and state
4 precinct splits?

5 A County splits is most important.

6 Q Did your analysis include whether the districts
7 were contiguous?

8 A Yes.

9 Q Did it include whether the districts were
10 compact?

11 A I didn't run any kind of analysis on whether
12 they are compact, but compactness I feel like is in the
13 eye of the beholder, and that kind of is the
14 consideration we take all along as we draw the maps.

15 Q You looked at the districts to see whether they
16 were compact?

17 A Yes.

18 Q But you didn't, for example, use a Reock
19 measure --

20 A No.

21 Q -- to determine whether they were compact?
22 And you didn't use a Polsby-Popper measure?

23 A No.

24 THE REPORTER: Use a what?

25 MR. CANTER: Polsby-Popper measure. I know.

1 It's two words. Two last names.

2 THE WITNESS: No, I did not.

3 Q BY MR. CANTER: Okay. Did you analyze or
4 assess as part of your drawing of the statewide maps
5 whether the new districts would preserve or split
6 communities of interest?

7 A So we did not have a community of interest
8 layer. We don't have that type of geography, so it's
9 very hard to determine that. We rely upon feedback from
10 the public hearings, people that mentioned their
11 community specifically, but to do that kind of analysis
12 is a lot more difficult without something to compare that
13 to.

14 Q Sure. Was it just information from the public
15 hearings that you relied on to make a communities of
16 interest assessment or was there anything else?

17 A Well, of course, we would expect members to
18 know their communities, so hopefully, if they feel
19 there's a concern from their community being divided,
20 they would bring that to the attention of the chairman.

21 Q Did you analyze whether new districts would be
22 difficult for election administrators to administer?

23 A That goes along with the split of the county
24 and the precincts.

25 Q Okay. You'd say that's part of one and the

1 same thing?

2 A Right. The fewer the splits, the easier it
3 would be for them to assign voters, especially under a
4 compressed time frame.

5 Q Got it. I understand that's especially the
6 case with precinct splits?

7 A Yes.

8 Q As part of your analysis of the maps, what did
9 you do to confirm that they were in compliance with the
10 Voting Rights Act?

11 A So compliance with the Voting Rights Act is a
12 legal opinion, so my work on drawing the map would
13 create -- try and maintain districts that we had
14 previously had that were districts that had been
15 majority-minority population districts. We try not to
16 reduce the number that we had before, and I would try to
17 make sure that what we were drawing, to the best of my
18 ability, continued that, if possible, but then I would
19 also ask them to have those reviewed by counsel for that
20 compliance.

21 Q So would it be fair to say that as a nonlawyer,
22 you tried your best to ensure compliance, but ultimately
23 that wasn't a determination you were making?

24 A True.

25 Q Okay. And the way you tried your best was to

1 preserve existing majority-minority districts?

2 A Yes. If I happen to know of an area that there
3 was, for instance, Hispanic population growth in
4 particular areas, and I was able to create a district
5 there, then that would be something we would try to do in
6 those areas. Of course, again, counsel would need to
7 say, yes, that's a good thing to do; go ahead and do
8 that.

9 I think that's kind of the premise of how -- I
10 do know a lot about state geography and whatnot, so using
11 that knowledge and seeing the -- the change in the
12 population data, of course, considering all of that,
13 where those districts can be drawn. And that's along
14 with all the other criteria that we're considering, we're
15 trying to also do that as well.

16 Q You mentioned that your knowledge of state
17 geography contributed to your sort of nonfinal but
18 relative determination of compliance with the VRA?

19 A Uh-huh.

20 Q Was there anything else that you considered?

21 A I think you've covered a lot of the things that
22 we considered.

23 Q I'm sorry, considered in reference to
24 compliance with the VRA. So, for example, did you look
25 at any Census data?

1 A That's pretty much all we look at is Census
2 data.

3 Q Okay. So was -- I'll try one more time.

4 Was your -- as part of your sort of assessment
5 of compliance with the VRA, did you look at the Census
6 data and say, oh, there is -- this reflects changes in X,
7 Y, and Z, and, thus, compliance to the VRA might require
8 A, B, C?

9 A I don't know that I did it quite like that.

10 Q Yeah.

11 A But, yes, if we know that there is changes in
12 certain areas, then we might know that that's going to
13 result in -- you know, I think we did increase the number
14 of districts that we had that were majority-minority from
15 before and also created a lot of minority opportunity
16 districts. So, yes, we consider a lot of those things,
17 the Census data and trends and whatnot that were in those
18 areas.

19 Q You just used the term "minority opportunity
20 districts"; is that right?

21 A Yes.

22 Q What does that mean?

23 A Districts where they may not have the majority
24 of the -- or over 50 percent of the population in that
25 district, but they have a strong influence in the

1 district in terms of the amount of population there.

2 Q So you -- that was helpful. Thank you.

3 You also just used the term "strong influence."
4 What does that mean?

5 A I think that's pretty self-explanatory. If you
6 have a large population in a district, then that -- that
7 population can strongly influence the outcome of that
8 election and would have a strong influence on whoever is
9 elected.

10 Q So if there was 49 percent minority population
11 in a district, would that be a strong influence?

12 A I think it would be, wouldn't you?

13 Q Yeah. How about 45?

14 A Pretty strong.

15 Q 30?

16 A I don't know that there's a particular number.
17 We didn't have a target number to say this is and this
18 isn't. I think that's just, take all of it into account
19 together.

20 Q But you tried to keep in mind that you could
21 draw districts where minority population had a strong
22 influence?

23 A Yes, and we did.

24 Q Okay. But would you say you had an objective
25 measure in mind for what strong influence means?

1 A No.

2 Q It was a factor that you tried to keep in mind?

3 A Yes. And that would be not the primary factor
4 as to maintaining the number of majority-minority
5 districts that we had before and increasing those where
6 we could. That would take precedence over whether there
7 were the creation of an additional or an influence
8 district or opportunity district would be a lesser
9 objective.

10 Q You just referred to an "influence district" or
11 an "opportunity district." Does that mean something
12 different to you?

13 A I don't necessarily believe they are that
14 different, in my interpretation.

15 Q Okay. I just want to understand.

16 A Right.

17 Q Yeah, okay. So those are the same in your
18 understanding?

19 A Right.

20 Q Yeah, okay. Great.

21 As part of your review of the statewide maps
22 that you drew, what did you do to ensure compliance with
23 the U.S. Constitution?

24 A So the U.S. Constitution speaks to the
25 congressional districts, I think, and equal population

1 specifically, so in terms of making sure those districts
2 are equal in population, complying with the U.S.
3 Constitution.

4 Q What about in terms of compliance with the 14th
5 Amendment of the U.S. Constitution?

6 A So those are legal questions that I would allow
7 counsel to weigh in on, if they felt like the maps were
8 in compliance with those.

9 Q Is there anything else that you did when
10 completing a map as part of your sort of assessment of
11 its -- well, assessment of the map?

12 A Yes.

13 Q What else did you do?

14 A I would run certain report checks for
15 unassigned, since it's plot geography, non-contiguous
16 piece geography. You could run a process through the
17 software to check the plan for that. We looked at -- we
18 did look at incumbent addresses when we were looking at
19 the maps.

20 That's what -- that's all I can think of at the
21 moment.

22 Q How did you get the incumbent addresses?

23 A So we reached out -- we had the chairman reach
24 out to the leadership in all of the -- I'll say the four
25 caucuses, two in the House, two in the Senate, but -- and

1 both sides, and let the caucuses compile those addresses
2 from their members and provide that to us.

3 Q It was private information?

4 A Yes.

5 Q Did you know whether a member was intending to
6 run again?

7 A No.

8 Q Did -- so nobody informed you whether -- nobody
9 informed you whether they were intending to retire?

10 A No.

11 Q You just received the information you received?

12 A Yes.

13 Q You didn't ask my questions about it?

14 A Unless we couldn't locate an address or there
15 was an error in an address, the zip code or something,
16 then we would question those things, but no.

17 Q The report checks that you mentioned --

18 A Uh-huh.

19 Q -- it was for determining whether there was any
20 unassigned districts or noncontiguous districts?

21 A Unassigned Census blocks.

22 Q Unassigned Census blocks. Thank you. Excuse
23 me.

24 A Like a piece that might have gotten missed.

25 Q Yeah. So in drawing the map, there was a piece

1 that just for whatever reason wasn't picked up or one of
2 the --

3 A Right.

4 Q -- districts was noncontiguous?

5 A Right.

6 Q Okay.

7 A Oh, I just thought. We also run a verify plan,
8 which is just a step in Maptitude, and that can catch if
9 there's calculation errors or anything weird --

10 Q Got it.

11 A -- like that.

12 Q Got it.

13 A That, too.

14 Q Thank you.

15 Did you do this sort of assessment after
16 completing the blind maps? And let me be clear. When I
17 refer to the "blind maps," I'm referring to the first
18 State Senate map you created and the first State House
19 map you created.

20 A Yes. I usually run, especially the unassigned
21 block and noncontiguous check most times on most plans,
22 especially before I want to show that to someone.

23 Q And did you run -- do this assessment,
24 including sort of -- actually, let me be clear to get the
25 answer correctly before.

1 The assessment you did regarding the State
2 House, the first State House and State Senate maps, was
3 it the report checks and everything else we've talked
4 about in terms of splits and compactness and communities
5 of interest, compliance?

6 A So a lot of the factors you are asking about --

7 Q Yeah.

8 A -- before the last little list are things we
9 consider as I work through a map.

10 Q Yeah.

11 A So I don't necessarily finish it and then go
12 back and look at those things. I'm looking at that as I
13 go.

14 Q Okay.

15 A The other things are more things you would do
16 at the end to look for unassigned pieces.

17 Q I see.

18 A To look for noncontiguous pieces, things like
19 that.

20 Q You are considering these through the whole
21 process?

22 A Yes.

23 Q Did any -- did you communicate any of these
24 factors to Chairman Kennedy or Chairman Rich?

25 A Which factors?

1 Q Did you ever speak with Chairman Kennedy or
2 Rich about split precincts?

3 A Yes.

4 Q About the compactness of districts?

5 A I'm sure we may have discussed that.

6 Q Yeah.

7 A I don't have a specific recollection. All of
8 those were factors they adopted in their committee
9 guidelines, so they knew that this was a part of what we
10 were going to be considering when we worked through the
11 maps as we drew them.

12 Q Did they ever mention these factors as a
13 priority?

14 A They were all considered a priority. I don't
15 think we discussed them in detail beyond the fact that
16 this was what we were going to consider.

17 Q Did anyone ever mention that one of these
18 factors was more important than another?

19 A I do not recall that being ever said.

20 Q Do you have an opinion if one of the factors
21 were more important than another?

22 A I think you have to take all of those into
23 account when you draw a map.

24 Q Okay. Are you aware that since the 2010
25 Census, the Georgia population has increased by around 1

1 same thing?

2 A Right. The fewer the splits, the easier it
3 would be for them to assign voters, especially under a
4 compressed time frame.

5 Q Got it. I understand that's especially the
6 case with precinct splits?

7 A Yes.

8 Q As part of your analysis of the maps, what did
9 you do to confirm that they were in compliance with the
10 Voting Rights Act?

11 A So compliance with the Voting Rights Act is a
12 legal opinion, so my work on drawing the map would
13 create -- try and maintain districts that we had
14 previously had that were districts that had been
15 majority-minority population districts. We try not to
16 reduce the number that we had before, and I would try to
17 make sure that what we were drawing, to the best of my
18 ability, continued that, if possible, but then I would
19 also ask them to have those reviewed by counsel for that
20 compliance.

21 Q So would it be fair to say that as a nonlawyer,
22 you tried your best to ensure compliance, but ultimately
23 that wasn't a determination you were making?

24 A True.

25 Q Okay. And the way you tried your best was to

1 recommended to add to 6 on that.

2 Q What do you mean by "e-mail list"?

3 A We talked about that. I had an e-mail from his
4 staff.

5 Q Oh, I see.

6 A It was in the documents somewhere.

7 Q I understand. So there was an e-mail from the
8 staff of Chairman Kennedy?

9 A Chairman Kennedy, uh-huh, on his behalf.

10 Q And the e-mail -- and I know I'm partly
11 paraphrasing here -- but roughly said, hey, here are some
12 things we would like you to do for your blind map?

13 A Right. Well, they didn't call that a blind
14 map, but here's some things we'd like to try on a
15 Congressional map.

16 Q Do you know why Senator Kennedy's staff wanted
17 to try adding Forsyth into CD 6?

18 A The desire for district -- or for congressional
19 District 6 was to make it a more politically electable
20 district.

21 Q Politically electable for whom?

22 A For the party of the people who were drawing
23 the map.

24 Q How was that information conveyed to you?

25 A It is obvious to me, but, I mean, I don't -- I

1 don't -- that discussion I think was had at some point.

2 Q Sorry. Sorry.

3 A I don't --

4 Q That question --

5 A -- have a specific --

6 Q Yeah.

7 A -- moment.

8 Q What makes it -- what makes it obvious to you?

9 A Forsyth County tends to vote Republican. It
10 was a political decision.

11 Q If you are gonna add Forsyth County, you are
12 going to have to take away something else. Is that
13 right?

14 A Right. So as the map from the bottom -- of
15 course, we have mentioned south Georgia's loss of
16 population, those three congressional districts across
17 the bottom, and I think even District 12 had a loss of
18 population or were below in population. They had to
19 reach upward. It sort of pushed the entire map. It did
20 this on all three. The effects of that on all three maps
21 pushed things northward.

22 So some districts around the middle and in the
23 upper parts in the Metro area were gonna get shifted
24 further up to where the population was. So the growth in
25 population there added into District 6 also gave -- met

1 their political goal for District 6, so that would be the
2 decision they made to push that district into Forsyth.

3 Q Are you aware that the benchmark Congressional
4 District 6 -- I'm pretty sure I'm right about this one --
5 was within 600 persons of the ideal population size for a
6 Congressional map?

7 A Yes. I think some of them were closer to the
8 target size than others, depending upon the pace of
9 growth. But in any redistricting map, we always say that
10 doesn't mean you can leave one district in a vacuum. The
11 effects of other districts, the desires of, you know,
12 what they want to see in the map impact the shape of the
13 district, so...

14 Q It seems like adding Forsyth was one of the
15 first proposals, though; is that right?

16 A It was on that initial draft.

17 Q The initial list --

18 A Uh-huh.

19 Q -- requesting information, right?

20 Are you aware of any other reasons why Forsyth
21 was added to -- just we'll start with the September map?

22 A Other than political reasons?

23 Q Other than the direction from the e-mail from
24 Senator Kennedy's -- Chairman Kennedy's staff.

25 A Well, as I said, I think that was the political

1 goal for District 6, so...

2 Q Ultimately in the passed map, Dawson was added
3 as well?

4 A I'm sorry, can you say that again?

5 Q It looks like, when I look at the passed map,
6 Dawson County was added on top of Forsyth.

7 A You mean passed, approved. I was wondering --

8 Q Oh, no, I didn't --

9 A -- when you said passed, and I was like --

10 Q I'm sorry.

11 A I was like, what, what?

12 Q I was told I need to stop that. Enacted?

13 A Enacted.

14 Q Yeah.

15 A Yes.

16 Q I'll --

17 A Yes.

18 Q -- rephrase.

19 Yeah. Ultimately the enacted map includes --

20 A Dawson.

21 Q -- Dawson County as well?

22 A That's correct.

23 Q Yeah. What was -- how did you get the
24 direction to add Dawson County to the enacted map?

25 A That was discussed in the meeting we talked

1 about earlier that I was on Zoom, and we worked on the
2 map, the Congressional map, and that --

3 Q So --

4 A -- was discussed in that meeting to increase --
5 (Zoom interruption.)

6 THE WITNESS: Okay. I don't know --

7 MR. JAUGSTETTER: Keep going.

8 THE WITNESS: Okay. What was I saying? The
9 meeting. Yes, that was discussed in the meeting, to add
10 that into District 6 to further -- to further increase
11 the Republican percentage in that district.

12 Q BY MR. CANTER: I believe that meeting included
13 Chairmans Kennedy and Rich, Mr. Tyson, Speaker Ralston,
14 Lieutenant Governor Duncan, and some of the Speaker and
15 other Governor staff, right?

16 A Yes, that's correct.

17 Q Do you remember who directed you to add Dawson?

18 A If I recall correctly, I think it was Speaker
19 Ralston.

20 Q Did he provide a reason?

21 A As mentioned, the discussion was about the
22 Republican percentage of the way the district would vote,
23 so that was what was being looked at and discussed as it
24 was -- as we were trying that out.

25 Q I believe you said that a map was up on the

1 screen during this conversation?

2 A Yes.

3 Q Was demo -- demographic data reflected on the
4 screen as well?

5 A Yes. There would have been demographic, as
6 well as political. I'm not sure how clearly they could
7 see that from where they were and the way that it was
8 projected, because I wasn't there with them, but it would
9 have been on the screen for -- while we were doing it.

10 Q Do you know if there was data reflecting the
11 race of citizens in the different districts on the
12 screen? Was it racial data --

13 A What do you mean?

14 Q Yeah, was it racial data reflected on the
15 screen?

16 A Yes.

17 Q Yeah, it doesn't mean you had demographic,
18 yeah.

19 A Racial data, as well as political data.

20 Q I'm sorry. I might have misheard you.

21 A Yes.

22 Q Thank you for that confirmation.

23 Did you literally make the change to Dawson
24 during that meeting?

25 A Yes.

1 Q And did the data change on the screen when you
2 made it?

3 A The data would change when you --

4 Q Yeah, yeah.

5 A -- change the map, yes.

6 Q So the -- the members -- the participants in
7 the meeting on the other side of the Zoom at least could
8 have seen the changes in the numbers?

9 A They could have. The pending change box that
10 shows up, I don't know if you are familiar with
11 Maptitude, but it will only show the changing number
12 while you have the selection highlighted.

13 Once you click that into the district or make
14 that change, then it switches to the new. You then can't
15 see the previous. You are not seeing both at the same
16 time.

17 Q Yeah, no, I know what you mean.

18 A Yeah.

19 Q So when you were about to change -- when you
20 were about to add Dawson to CD 6, you could see the
21 racial composition of Dawson under the September map next
22 to the racial compo- -- I'm sorry, the racial composition
23 of CD 6 on the September map next to the racial
24 composition of CD 6, or would it change --

25 A No.

1 Q Okay.

2 A It's going to show the two districts. So
3 whichever district you are moving it out of and the
4 district you are pushing it into, it's going to show the
5 new number for what that would be if you moved -- if
6 you --

7 Q Okay.

8 A -- clicked that, made that change.

9 Q So right before making -- right before adding
10 Dawson into CD 6, they are able to see what the new
11 racial composition of CD 6 would be?

12 A Right. They would see the new number. They
13 wouldn't see the previous --

14 Q Right.

15 A -- at that point.

16 Q Yeah. But before adding that, you would have
17 seen the previous --

18 A Right.

19 Q -- composition? Okay.

20 A You could have, yes.

21 Q Yeah, yeah, if they looked.

22 A If you are looking, yeah.

23 Q Yeah, right. And then you click it, and it's
24 added?

25 A It switches.

1 Q Yeah.

2 Was the discussion just, let's add Dawson, or
3 was there anything more specific about that? It looks
4 like the entirety of Dawson County was added.

5 A Yes. We moved -- both those two counties were
6 in -- added in whole. Of course, trying to divide
7 counties was not -- as we talked about earlier, it poses
8 problems with elections and whatnot, so trying to limit
9 the splitting of counties.

10 I think there was discussion about the fact
11 that Georgia 400 runs up through that district, so there
12 is a common road traveling through there, as far as those
13 areas being together, but the -- there was a lot of
14 discussion going on. Again, I wasn't in the room, so
15 it's...

16 Q Could you hear what was in the room?

17 A I could, but again, I'm looking at other things
18 while they are discussing --

19 Q I see.

20 A -- what they are doing.

21 Q So based on your knowledge -- I understand you
22 couldn't necessarily hear everything, but based on your
23 knowledge, was there any other factors that were
24 considered in the room when deciding to add Dawson County
25 to CD 6?

1 A To my recollection, adding Dawson to CD 6 had
2 to do with the political numbers of the district. That
3 was the only thing.

4 Q Okay. You just mentioned that you try hard to
5 not cut counties. Is that right?

6 A Correct.

7 Q I see the new CD 6 cuts right through Cherokee.
8 Is that right?

9 A Yes.

10 Q Did I pronounce it correct?

11 A Cherokee.

12 Q Yeah. When was the decision made to add this
13 portion of Cherokee County to CD 6?

14 A I think that was a part of that meeting as
15 well. We were working on the shape of District 6 --

16 Q Okay.

17 A -- and the political performance of District 6.

18 Q Who asked that this portion of Cherokee be
19 added to CD 6?

20 A I don't recall.

21 Q But it was someone that was in the room?

22 A Right. As we were making adjustments in that
23 area to District 11 and District 6, that I think we were
24 able to put Bartow County back together, it previously
25 had been split before, but then population-wise required

1 that splitting in Cherokee. There was a lot of movement
2 in making adjustments in those two districts in that area
3 during that meeting.

4 Q Yeah. Can you help me out? Can we go to the
5 September map for a second, just -- oh, I see. Bartow
6 County was split in CD 11 in the September map?

7 A Right.

8 Q But when you added Cherokee to CD 6, you were
9 able to keep Bartow County whole --

10 A Yes.

11 Q -- in the passed map?

12 A Right.

13 Q Okay. The -- the line that cuts through
14 Cherokee --

15 A Uh-huh.

16 Q -- right, it's kind of jagged?

17 A Uh-huh.

18 Q Right?

19 A It's a river.

20 Q It's a river. Okay. So it follows the river?

21 A That's -- yes. The precinct lines there follow
22 the river, and so, therefore, it's following the
23 precincts, which is, I think, follows the river.

24 Q Great. Thank you for that.

25 A Uh-huh.

1 Q It looks like a portion of Cobb County was
2 taken out of CD 6. Let me rephrase the question.

3 I'm looking at the side-by-side map right now.

4 A Okay.

5 Q I think it's helpful right now. And I see in
6 the benchmark CD 6, there is more Cobb County than in the
7 enacted CD 6?

8 A Uh-huh.

9 Q Do you recall taking a portion of Cobb County
10 out of CD 6?

11 A Specifically, no. As I said, we were doing a
12 lot of movement in that area on the map. And again, the
13 push of population does impact what -- where those lines
14 are drawn. I don't specifically recall --

15 Q Okay.

16 A -- what we did, you know.

17 Q Do you think that you made that change
18 regarding Cobb County and CD 6 during the working session
19 that we've been discussing?

20 A Cobb County was divided on both of the versions
21 from September. In CD 6 it had been -- even before that,
22 I think it was split. So that area had always been a
23 portion of District 6; it had always been divided. So
24 it's a similar line on all three versions. I mean, if
25 you look at -- I'm trying to remember which. This is the

1 prior.

2 Q Yes.

3 A So this would have been the benchmark.

4 Q Yeah.

5 A And then this is the September. All three,
6 that same East Cobb area is in District 6. So to give
7 you the specifics of how many people moved one or the
8 other in that area, I don't know.

9 Q Got it.

10 Some portion of CD 6 -- well, let me back up.

11 You added a portion of Cherokee, all of
12 Forsyth, all of Dawson into CD 6 for, ultimately, the
13 enacted plan?

14 A Uh-huh.

15 Q Adding more people, you've got to take some
16 people out. Was there any discussion about where you
17 were going to take people out?

18 A So I think that had been done on the
19 September map when we moved District 6 out of North
20 DeKalb.

21 Q I see. So was the decision to move -- remove a
22 portion of DeKalb from CD 6 made in the e-mail provided
23 to you from Chairman Kennedy's staff?

24 A I believe that it did say to shift 6 out of
25 DeKalb and up into Forsyth, so yes.

1 Q Do you recall any other directions from
2 Chairman Kennedy's staff about the composition of CD 6?

3 A Not specifically, no.

4 Q Do you remember any other discussions about
5 CD 6 during -- about the composition of CD 6 during the
6 working session that we've been talking about?

7 A Yes. There was discussion about a proposed --
8 or a candidate, a potential candidate in District 6 that
9 where that person lives and something about that person.

10 Q Do you remember the potential candidate?

11 A I'm trying to remember his name.

12 Q It was a he?

13 A It was a he.

14 Q McCormick?

15 A No.

16 Q But it was a potential candidate that you
17 wanted to keep in CD 6?

18 A That they wanted to not have in CD 6. But, of
19 course, candidates for Congress don't have to live in the
20 district anyway, so...

21 Q Did you talk to anyone who either is in
22 Congress or who -- actually, I won't make -- break it
23 down. Did you talk to anyone in Congress about the
24 composition of CD 6?

25 A Did I talk to anyone in -- say that one more

1 time.

2 Q Yeah. Did you talk to any congressional
3 representatives about the composition of CD 6?

4 A About 6, specifically 6, no.

5 Q Okay. But you talked to congressional
6 representatives about some other portions of the map?

7 A I did speak with a member of Congress about the
8 maps, and this was at the beginning before there were
9 proposed maps produced, yes.

10 Q Which member?

11 A Sanford Bishop.

12 Q Is there anything else about -- did you receive
13 any other directions than what we discussed about the
14 composition of CD 6?

15 A I think that the portion that went into
16 Gwinnett was something requested from Chairman Rich on
17 the final version.

18 Q Oh, oh, I see, the portion in the north part of
19 Gwinnett?

20 A Yes.

21 Q Do you know why Chairman Rich asked to have
22 that portion?

23 A I think she has connections to that area, so I
24 assume that's why, but she didn't specifically tell me
25 that.

1 Q Was that decision also made during the working
2 session?

3 A Yes.

4 Q And just so that we're clear, the same data was
5 reflected on the image -- on the screen for the people in
6 the room to see, for all the changes made to the map?

7 A So the pending change box --

8 Q Yeah.

9 A -- only shows one district at a time --

10 Q Right.

11 A -- if you select it, and then it will show a
12 second district as you start to move it. That's
13 typically what was left on the screen, not a full data
14 view.

15 Q I got it. So that's -- that's a fair point.

16 But is it -- is it true that whenever you were
17 focused on a district there was data reflected on the --
18 on the image as well?

19 A Most of the time, yes. There could be a time
20 I've hidden the window for a reason if I'm doing
21 something else, but...

22 Q But unless there is some specific reason, you
23 were always keeping data reflected on the image on the
24 screen so that they -- the worker -- the people that are
25 working on the maps with you can see the data

1 composition?

2 A Right. They would see the pending box, not
3 the -- the full data view. That takes up a lot of space
4 on the screen. So the pending box would have been there.

5 Q They would see how changes you have made to the
6 map impact the data composition?

7 A It's much more difficult to look at the pending
8 change box and then know. Because, as you know, looking
9 at this, you look at one map and then you have to look
10 back because you don't remember what you just saw. So
11 it's a lot harder to do that. It doesn't show all of
12 that data at one time for you to be able to say, it was
13 this and now it's this.

14 Q Yeah.

15 A Does that make sense?

16 Q Yeah.

17 A So it's after the fact is easier to go back, if
18 you want to do that sort of analysis and look at numbers
19 in a population summary report or in a data view, in
20 another method. It's much harder to do that while you're
21 watching it on the screen.

22 Q After the working session, did you provide
23 printouts or data reflecting the -- comparing the new --
24 the composition for the plan that you had just prepared
25 versus the prior version?

1 MR. CANTER: We can go off the record.

2 THE VIDEOGRAPHER: The time is 11:44 a.m. We
3 are going off the video record.

4 (The deposition was at recess from 11:44 a.m.
5 to 12:56 p.m.)

6 THE VIDEOGRAPHER: 12:56, we are back on the
7 video record.

8 Q BY MR. CANTER: Hello, Director Wright.

9 A Hello.

10 Q During the break, did you speak with your
11 counsel about the subject or the contents of this
12 deposition?

13 A No.

14 Q Did you speak with anyone else about the
15 subject or contents of this deposition?

16 A No.

17 Q If you recall before the break, we were
18 discussing the enacted CD 4; is that right?

19 A 6.

20 Q The enacted CD 6, excuse me.

21 A Yes.

22 Q Yes. Dawson County was added to CD 6. Do you
23 know the racial composition of Dawson County?

24 A No, I don't, not specifically.

25 Q Do you know the racial composition of Forsyth

1 County?

2 A Not specifically, no.

3 Q Would you agree that Dawson County is majority
4 white?

5 A I believe that to be true.

6 Q Would you -- would you agree that the vast
7 majority of Dawson County is white?

8 A How would you measure vast?

9 Q More than 70.

10 A That very well could be true. I don't --
11 again, I don't know the demographics.

12 Q Sure. But based off your experience as a
13 demographer, you're pretty sure it's more than 70?

14 A I would think it's around that at least.

15 Q Would you agree that Forsyth County is majority
16 white?

17 A I believe that to be true, but I'm not sure of
18 the numbers again on that one either.

19 Q Still pretty high?

20 A Probably pretty high.

21 Q Would you agree that Cherokee County is
22 majority white?

23 A I believe that's true.

24 Q Do you know whether the portion of Cherokee
25 County that was added into CD 6 is majority white?

1 A I don't know the demographics specifically.

2 Q Would you agree that the portion of Cobb County
3 that was taken out of CD 6 is majority people of color?

4 A Again, I'd have to look closely. The areas are
5 very similar, so you are looking at a few precincts, and
6 I don't know the demographics of those precincts
7 specifically.

8 Q The last one is, would you agree that the
9 portion of DeKalb County taken out of CD 6 is majority
10 people of color?

11 A I don't know that to be true either.

12 Q Okay.

13 A DeKalb.

14 Q DeKalb, thank you. DeKalb County.

15 A Sure.

16 Q Now, looking at those changes to CD 6 in
17 totality, adding in Dawson and Forsyth counties, taking
18 out Cobb and DeKalb counties, would you agree that
19 this -- these changes make CD 6 more white?

20 A I would have to look at the data to verify
21 that. I'm not 100 percent sure that they do.

22 Q Do you have a sense right now?

23 A I have no reason to think that you're wrong
24 based on the demographics of the counties that were added
25 in, so that's probably true.

1 Q Okay. Okay. Do you know if Lucy McBath was
2 the candidate of choice for voters of color?

3 A Voter -- I don't know where. I don't know. In
4 what --

5 Q Sure.

6 A -- election?

7 Q Do you recall that Representative Lucy McBath
8 represented CD 6 from 2020 to 2022?

9 A Yes.

10 Q Do you know that in the -- whether in the 2020
11 election Representative McBath was the candidate of
12 choice for people of color?

13 A I don't know. She was elected from the voters
14 in District 6. I don't know the demographics of what
15 that district was at that time, so I can't speak to
16 whether that was voters of color or just the voters of
17 the district.

18 Q Can you go back to, I think it was Exhibit 2,
19 which is the enacted Congressional map. And you see that
20 CD 4 is next to CD 10?

21 A Yes.

22 Q All right. And if you go to page 2, you have a
23 blowup of CD 4 next to CD 10, right?

24 A Yes.

25 Q Did you draw the lines that separated CD 4 from

1 CD 10?

2 A Yes.

3 Q Do you remember drawing those lines?

4 A Specifically, no.

5 Q Okay. Okay. Do you see Oxford is right at the
6 edge between CD 4 and CD 10?

7 A Yes.

8 Q I'd like to pull up an exhibit on Exhibit
9 Share, so it should pop up on your computer.

10 (Deposition Exhibit 5 was marked for
11 identification.)

12 MR. DAVIS: I'm going to share my screen, so
13 you should be able to see it on your screen in a second
14 here.

15 MR. CANTER: He's loading it.

16 MR. DAVIS: Okay. Can you see something on
17 your screen? I'm going to make it bigger for you.

18 THE WITNESS: Yeah, I see something.

19 MR. DAVIS: I will make it bigger. There we
20 go. Is that -- can you see anything?

21 THE WITNESS: I can see red outlines with blue,
22 red, gray.

23 MR. DAVIS: Great. We can zoom in. If you
24 want us to zoom in at any point, just let us know,
25 please.

1 THE WITNESS: Okay.

2 Q BY MR. CANTER: So I'm going to describe the
3 image on the screen right now.

4 A Okay.

5 Q The blue line represents the congressional
6 district line.

7 A Okay.

8 Q Below is CD 4. Above is CD 10.

9 A Okay.

10 Q Does that make sense?

11 A Yes.

12 Q The gray box is the city of Oxford.

13 A Okay.

14 Q So if you recall from Exhibit 2 we just looked
15 at, it's right around where I was pointing to.

16 A Uh-huh.

17 Q Right? The red lines are the state precincts.

18 A Okay.

19 Q Does that make sense?

20 A Yes.

21 Q Okay. Have you ever -- have you ever looked --
22 when you -- how about this. When you are drawing maps,
23 do you ever look at the map this zoomed in on an area in
24 the state of Georgia?

25 A Yes.

1 Q And why do you do that?

2 A There could be a lot of reasons why you would
3 zoom in.

4 Q Sure. Can you describe some of the reasons why
5 you would zoom in?

6 A Oh, well --

7 Q Yeah.

8 A -- I mean, on a Congressional map, we try to
9 use whole precincts where we can, but because you have to
10 draw them to as a population, or we draw them to a
11 population of zero deviation, you are going to have to
12 zoom in down to block level to get the correct numbers of
13 population so that you can have that deviation to that --
14 that tight range.

15 Q Okay. So you testified earlier that an
16 important goal for drawing is to not cut state precincts?

17 A Right.

18 Q And one of the reasons you provided was that
19 it's administratively difficult --

20 A Uh-huh.

21 Q -- for the election administrators?

22 A Yes.

23 Q Can you describe why it's administratively
24 difficult?

25 A So when an elections official assigns voters a

1 ballot in a split precinct, they have to create a combo
2 for the unique district combinations in that precinct,
3 unless they change their precinct lines, meaning the
4 voters that are in one district have one combo that
5 reflects that in the other district assignments that they
6 are in; and voters that are in that same precinct that
7 have a different district assignment would require a
8 different combo, so that they receive the correct ballot
9 when they go to vote.

10 Q Okay. Now, if we look back at this image and
11 we look at how the blue line cuts through the city of
12 Oxford --

13 A Uh-huh.

14 Q -- it looks to me like that line is cutting
15 through the state precinct; is that correct?

16 A That looks to be, yes.

17 Q How would, on a sort of technical level, you
18 accomplish drawing a line that cuts through a state
19 precinct?

20 A What do you mean how would I accomplish it?

21 Q So you drew -- you drew this line so that CD 4
22 and CD 10 have this composition, right?

23 A Right. So drawing is clicking with a mouse,
24 not drawing.

25 Q Yeah, yeah. Fair enough.

1 A Okay.

2 Q So when you are clicking with a mouse to create
3 the line between -- I'm going to say it's between CD 4
4 and 10, because that's what we are looking at. What do
5 you need to do to draw -- to create a line that cuts
6 through a precinct? Is it a different process than
7 creating a line that goes along a precinct?

8 A So you'd select which type level of geography
9 you are using for what you are clicking on.

10 Q Sure.

11 A You can click on the larger geography. You can
12 click on counties. You can click on precincts or voting
13 districts. You can click on Census blocks. When you get
14 down to this level, you would be clicking on Census
15 blocks.

16 Q Please go on.

17 A At that level. And that's the level you would
18 be at so that you would know, because you are trying to
19 reach that perfect ideal district size, finding the right
20 combination of the population in the Census blocks to
21 achieve that.

22 Q You would -- and just so I understand, you
23 would have to be at the Census block level in order to
24 draw a line that cuts through a state precinct?

25 A Say that one more time.

1 Q So is there racial data at the block level?

2 A Yes.

3 Q All right. Is there any other type of demo --
4 data at the block level?

5 A So when we build our precinct layer, we do
6 allocate the election data to the block level, so we have
7 that political data at that level. It's estimating,
8 based on the demographics in there, based on registered
9 voter demographics kind of corresponds the two and
10 allocates down to that level. So we do have estimate
11 political data at the block level when we do this.

12 Q When you are drawing a map and you are looking
13 at the block level --

14 A Uh-huh.

15 Q -- is data reflected on the screen?

16 A Yes.

17 Q And is the estimated election data on the
18 screen with the other data?

19 A Yes.

20 Q You agree that the line we're looking at here
21 splits through the precinct, right?

22 A At the time, Newton County was considering
23 precinct changes. We were working with several -- their
24 elections office, and we had a draft precinct layer that
25 they were considering, so it's possible that I referred

1 earlier today?

2 A Yes.

3 Q About the Congressional map?

4 A Yes.

5 Q Do you remember talking about the line that
6 separated CD 4 and 10 during that working session?

7 A No, I do not.

8 Q At any other time, do you recall communications
9 or requests related to drawing the line between CD 4 and
10 10?

11 A I don't remember conversation about the line.
12 In that area, there was a question about an address at
13 one point. I don't remember where it fell and whose it
14 was, but that's the only thing I remember about that
15 area.

16 Q When you say a question about an address, would
17 that be an incumbent address?

18 A I don't know whose it was.

19 Q Okay. Just a question.

20 How often were you looking at the block level
21 when drawing maps?

22 A I don't have an answer for that. It varies.

23 Q Would it be fair -- would it be fair to say
24 that you looked at the block level a lot?

25 A When you get to the point of where you are

1 Q What is the block level -- I'm sorry, what is
2 the layer that you look most often at when drawing in
3 that area?

4 A Probably the precinct layer, precincts VTDs,
5 those two.

6 Q When I say that's one up, does that make sense,
7 from the block layer?

8 A Right, it's a step larger.

9 Q Yeah, right. And it's a single step larger?

10 A Yes.

11 Q Did you also have all of the Census data
12 available to determine the effects of changes at the
13 precinct level?

14 A You mean the pending change --

15 Q Yeah.

16 A -- box? Yes.

17 Q And was all the demographic information related
18 to that Census data reflected on the screen?

19 A Yes. I typically kept the same data on the
20 pending change box when I worked on these maps, which
21 would include the -- the demographics, as well as the
22 political.

23 Q Was the same estimated election data available
24 at the precinct level?

25 A At the precinct level, it's not estimate. At

1 most of them.

2 Q Okay.

3 A Historical precinct layers, we would have those
4 that come into the file. Other things that are part of
5 the Census within our system, the TIGER files that come
6 in. All the different TIGER files that come with the
7 Census geography.

8 Q You mentioned earlier that you don't have a way
9 to quantify communities of interest?

10 A Correct.

11 Q So none of these layers you mentioned would, in
12 your understanding, reflect communities of interest?

13 A Correct.

14 Q Just so I understand, what's a TIGER file?

15 A That's the name for the -- it's a Topographic
16 Integrated Geographic, something around there. That's
17 what the Census Bureau geography files are called. I'd
18 have to look up what the letters stand for.

19 Q Sure. That's fine. You don't need to.

20 When you were looking at the Congressional map
21 with the working session, would you reflect different
22 layers of the map?

23 A Reflect in what way?

24 Q I'll ask a different question.

25 When you are at the working session, did the

1 people on the screen ever see the block level, the block
2 layer -- block level layer, how about that?

3 A It's possible.

4 Q All right. Did they ever see the precinct
5 level layer?

6 A Yes, I'm sure.

7 Q Did they ever see the county level layer?

8 A They're usually all turned on, other than the
9 blocks until you zoom in.

10 Q They're all -- so at the working session, you
11 recall that the county and precinct level layers were
12 turned on?

13 A I'm sure that they would be. I wouldn't have
14 been working at -- at that level if we were zoomed in, as
15 you questioned about District 6. We would have been
16 working with, most likely, precincts in that area. I
17 don't remember what I have turned on at any given time,
18 and when you zoom in the map, you do alter, you know, the
19 layers that are on so that there's clear visibility for
20 what you are looking at.

21 Q I recall you saying that there was a decision
22 to move -- sorry -- Dawson into CD 6 during the working
23 session?

24 A Yes.

25 Q So when they decided -- when the data showed up

1 A Yes.

2 Q And they probably weren't looking at precinct
3 level data?

4 A Probably not.

5 Q Okay. Can you go back to Exhibit 2, and you
6 can stay on the second page. And do you see that CD 14
7 shows up on the second page?

8 A Yes.

9 Q Did you draw the lines for CD 14?

10 A Yes.

11 MR. CANTER: I'm going to hand to the court
12 reporter what I'd like to mark as Exhibit 5 (sic), I
13 believe.

14 (Deposition Exhibit 6 was marked for
15 identification.)

16 Q BY MR. CANTER: Director Wright, this is
17 another document which reflects on the left the benchmark
18 CD 14?

19 A Uh-huh.

20 Q And on the right the enacted plan CD 14. Does
21 that make sense?

22 A Yes.

23 Q Do you -- and I think you can also see this in
24 Exhibit 2, but do you see the enacted CD 14 adds a little
25 piece on the bottom southeast?

1 A I'm sorry, where?

2 Q On the bottom southeast.

3 A Yes.

4 Q And this bottom southeast addition includes the
5 cities of Austell and Powder Springs?

6 A Yes.

7 Q Do you know that Austell and Powder Springs are
8 both majority people of color cities?

9 A I do not know the specific demographics of
10 those cities, but...

11 Q Would it -- does that make sense to you, I
12 mean, based on your understanding of the demographics of
13 that area?

14 A Sure.

15 Q Okay.

16 A But the cities themselves are not in their
17 entirety the area that was taken in. They are just a
18 portion of it.

19 Q There are -- I just want to understand what you
20 said. There are other portions of this addition to CD 14
21 that are not Powder Springs and Austell?

22 A Correct.

23 Q The majority of the addition, though, are those
24 two cities?

25 A I don't know what the population of the two

1 cities are in relation to the population of that entire
2 area, but...

3 Q Okay. But at least --

4 A They are -- they are included in the area that
5 was added into CD 14.

6 Q Right. They are certainly part of it. Okay.

7 Would you say that -- I'm going to call this
8 just the addition, the southeast addition. Does that
9 work?

10 A Sure.

11 Q Would you say that the southeast addition can
12 be justified based off of compactness principles?

13 A Based off compactness principles, I don't think
14 it makes a huge change in the shape of the district.

15 Q Okay.

16 A It's a small area.

17 Q Would you say that adding the southeast
18 addition can be justified based off of respect for
19 preserving communities of interest?

20 A In terms of keeping two cities wholly within
21 that district, they were maintained and not divided into
22 any other districts, so if you consider that a community,
23 they were maintained in one district.

24 Q What about adding an urban community into a
25 district that is primarily rural?

1 A I'm sure there are places on the map where that
2 happens, but this decision to draw this in this area was
3 above my -- my level.

4 Q Okay. Let's talk about that then.

5 A Go right ahead.

6 Q Why did this piece of CD 14, why did the
7 southeast addition get added to CD 14?

8 A Sure. So the push from the south part, as
9 we've talked about population wise, impacted the other
10 districts that border up against it. So we already had
11 removed Haralson County out of 14, and Pickens County
12 also, as you know, had requested quite vocally to be
13 wholly within one district and not be divided. So the
14 decision was made then to push Pickens into a different
15 district and keep it wholly together.

16 And there was still a need for District 14 then
17 to have population. Because the size of District 13 is
18 what -- it was not modified very much at all. It did
19 lose part of Douglas County and a little bit of Cobb.
20 That population needed to go elsewhere. And politically
21 putting that area into District 11 was not beneficial to
22 the performance, as you talked about, for District 11, so
23 it was decided that it would go into 14. That area
24 voted, I think around 60 percent democratic, so that was
25 the reason that it was chosen to be pushed into 14.

1 Q That was a lot of information.

2 A There you go.

3 Q When was that -- when was the direction
4 conveyed to you?

5 A That was part of that working session.

6 Q All right. Do you remember who conveyed that
7 direction to you?

8 A I do not specifically. It was discussed.

9 Q And were all of those factors that you just
10 brought up discussed?

11 A Yes. I think that was part of what led to --
12 to that idea.

13 Q I see. And I know you just said you don't
14 recall who specifically made the direction, right?

15 A Right.

16 Q But did you have any sort of opinion about
17 making this change?

18 A Well, I mean, I understood their justification
19 for their -- that was the political goal that they had,
20 and I work for them, so, you know, my opinions are not...

21 Q I -- okay. Though it seems like you might, in
22 fact, have an opinion.

23 A Well, counties are -- larger counties are going
24 to be split on these maps. We know that. And it is
25 always better if you are going to split, split within a

1 larger county than to go and split another smaller
2 county. So putting Pickens back together was definitely
3 a decision I felt like was a good choice. They requested
4 that. Let's do that. It made sense to the map, and
5 it -- it fit into where everything else laid out.

6 This particular area, that was not my decision.
7 They made that decision, and I do what I am told.

8 Q Okay. So you said that it made sense to keep
9 Pickens whole?

10 A Yes.

11 Q Would it be fair to say that you didn't think
12 it made sense to take this piece of Cobb?

13 A Well, no. I will say that it is -- when you
14 are splitting and dividing between districts, larger
15 counties are going to already be split. So rather than
16 cause a county that is much smaller to have to have two
17 different combinations, two different congressional
18 districts, especially when they requested specifically to
19 have that reversed from how it had been, putting that
20 county back together was a more logical choice than
21 including an additional split in another county that's
22 already split.

23 Q You -- I think you just said that putting
24 Pickens back together so that it's not split --

25 A Uh-huh.

1 Q -- was a logical choice if the consequence
2 would be to split Cobb, which already was split?

3 A Correct.

4 Q So it was a good idea in this circumstance to
5 split Cobb into four?

6 A There were the political justifications for why
7 they chose to do that. That's the reasoning behind that
8 split, why that was put into the 14th District.

9 Had they chosen a different route, that
10 particular area, as I said, was a strongly democratic
11 voting area, and putting that into the 11th District
12 would have reduced the Republican numbers in the 11th
13 District. The 14th District was a stronger Republican
14 district, so therefore, adding that democratic area into
15 a more Republican performing district was not going to
16 make as big of an impact on the 14th as it would on the
17 11th.

18 Q And those were political considerations that
19 you were -- that were conveyed to you?

20 A Well, yes, that was what the -- you can look at
21 the numbers in the data and see.

22 Q But you're -- you're a demographer, right? Or
23 you draw maps a lot, right?

24 A I've been called that, yes.

25 Q Yeah, yeah. Yeah, you draw maps a lot.

1 going off the video record.

2 (The deposition was at recess from 1:40 p.m. to
3 1:56 p.m.)

4 THE VIDEOGRAPHER: The time is 1:56. We are
5 back on the video record.

6 MR. CANTER: I want to clarify for the record
7 the exhibit numbers for the documents that I just showed
8 during the last session.

9 Exhibit 5 will be the zoomed-in map of the area
10 of Oxford, and Exhibit 6 will be the prior and enacted
11 Congressional District 14 boundaries.

12 Q BY MR. CANTER: Director Wright, did you speak
13 with your counsel about the contents of this deposition
14 during the break?

15 A No.

16 Q Did you speak with anyone else about the
17 contents of the deposition during the break?

18 A No.

19 Q Can you please go to the enacted Congressional
20 map. It was Exhibit 2.

21 A 2.

22 Q And can you take a look at CD 13? We spoke a
23 little bit about CD 13 before because you pointed out
24 that an area around Douglasville had previously been in
25 CD 3 and was added to CD 13. Is that correct?

1 A I think Douglas County had been wholly within
2 13.

3 Q Ah. So in the benchmark plan, Douglas County
4 was wholly in 13?

5 A Correct.

6 Q In the September plan, a portion of it that
7 didn't include Douglasville was added to 13; and then for
8 the enacted, that portion that now includes Douglasville
9 was added?

10 A That sounds correct. Yeah, it changed.

11 MR. CANTER: Okay. I'd like the court reporter
12 to mark as Exhibit 7 another comparison of two districts.
13 This time on the left we have the benchmark Congressional
14 District 13, and on the right we have the enacted
15 Congressional District 13.

16 Q BY MR. CANTER: Does that sound right to you,
17 Director Wright?

18 A Yes. I haven't looked at it yet, but...

19 (Deposition Exhibit 7 was marked for
20 identification.)

21 Q BY MR. CANTER: So yeah, take a second. Does
22 that look right?

23 A That looks right.

24 Q Okay. Now, can you go to the population
25 summary tables in Exhibit 2 and look at the data

1 reflecting the black population in CD 13.

2 Do you see where I'm looking?

3 A Yes.

4 Q It says that the black population is just
5 under -- or just over 64 percent of CD 13; is that right?

6 A Yes.

7 Q Do you consider that CD 13 a packed district?

8 A No.

9 Q Why not?

10 A Packing usually is a higher percentage, in my
11 mind, than 64 percent.

12 Q Okay. So am I understanding that the reason
13 you think CD 13 isn't packed is because 64 percent black
14 population isn't enough to constitute a pack?

15 A I don't know that I'd say isn't enough. But
16 typically, when I have looked at things to question
17 whether or not that was something that was packed, these
18 numbers were significantly higher than 64 percent. We
19 have a lot of districts on our House and Senate maps that
20 are comparable to that number and note those are not --
21 we would not consider those to be packed districts
22 either, so I would not consider that to be a packed.

23 Q If we can go back to the summary table. Right
24 next to it is the Hispanic population for CD 13.

25 A Uh-huh.

1 Q And that's just over 12 percent.

2 A Yes.

3 Q Now, if you were to combine the black and
4 Hispanic populations into a single minority coalition,
5 that would equal about 76 percent Hispanic/black
6 population in CD 13, right?

7 A Yes.

8 Q Would you consider 76 percent of a -- of a
9 coalition population to be packing that coalition into
10 the district?

11 A I have not usually combined race categories
12 together to consider it a packing or not packing. From
13 my experience, it's typically been one single race
14 category.

15 Q Okay. Let's say it was one single race
16 category.

17 A Uh-huh.

18 Q Would 76 percent of that group be considered a
19 pack to you?

20 A It would be a high number. It might depend on
21 what the circumstances were in the area surrounding that
22 same area. I know that we have had some of our State
23 House districts that have been around 70 percent of a
24 single race category, which is high, but they are also
25 surrounded by other districts that are equally as high.

1 A I have to think about it, but that's definitely
2 one of the things --

3 Q Yeah.

4 A -- to look for and to look at.

5 Q Okay. Do you remember drawing -- do you
6 remember drawing CD 13? I know we talked about a portion
7 of drawing CD 13. Do you remember drawing CD 13?

8 A Not specifically in detail.

9 Q Were there any discussions during the working
10 session about CD 13 in particular?

11 A I don't recall any.

12 Q Okay. You can put the document -- those
13 documents to the side.

14 MR. CANTER: I'm going to hand to the court
15 reporter what should be marked as Exhibit 8.

16 (Deposition Exhibit 8 was marked for
17 identification.)

18 Q BY MR. CANTER: And Director Wright, this is
19 the enacted Senate map, if you want to take a second to
20 look at it.

21 Does this look right to you?

22 A Yes.

23 Q And we've already talked about this, but do you
24 remember -- you drew this map?

25 A Yes.

1 their feedback, then he could bring to me through --

2 Q I understand the distinction.

3 A -- through him. Yes.

4 Q Thank you. Thank you.

5 Do you see Senate District 17 on this map?

6 A Yes.

7 Q All right. Do you know who is the senator in
8 SD 17?

9 A Yes.

10 Q Who is it?

11 A Brian Strickland.

12 Q Do you know Senator Strickland?

13 A Yes.

14 Q Do you remember drawing SD 17?

15 A Yes.

16 Q Do you remember if anyone provided you
17 direction about SD 17?

18 A There was discussion about that particular
19 district, yes.

20 Q Can you describe the discussion?

21 A Yes. So Senator Strickland is a Republican who
22 lives in McDonough, in downtown McDonough, and to try and
23 create a district that he could continue to win, because
24 he's the chair of judiciary and an incumbent senator.

25 Q Who did you have these discussions with?

1 A Who did I have these discussions --

2 Q Yes.

3 A -- with?

4 That would have been with Chairman Kennedy.

5 Q So did Chairman Kennedy convey Senator
6 Strickland's position about SD 17 to you?

7 A I don't know that he conveyed a position about
8 it.

9 Q Okay.

10 A I think the idea was to draw a district that
11 would be a Republican district.

12 Q So Chairman Kennedy told you to draw a district
13 that would allow Strickland to win?

14 A I don't know that it's -- it's hard to bring
15 out explicit details of conversations because I don't
16 know that he said that word for word --

17 Q Yeah, I understand.

18 A -- verbatim, but that was the understanding. I
19 think for all the senators there was, you know, drawing a
20 district that would allow any incumbent senator to
21 continue to be reelected was something that they
22 considered.

23 Q Was there any direction about how Chairman
24 Kennedy wanted you to draw SD 17?

25 A I don't know if -- if I recall specific

1 A But I -- I don't know that he specifically said
2 that's what he wanted. I don't know if that was
3 something that the Caucus wanted to do or, of course, it
4 is a Republican seat, that they would want to maintain.

5 So I don't know exactly where the details of
6 all of that came to be, but could there be -- could we
7 draw a district that he could continue to win, and the
8 map reflects that.

9 Q It was just -- the information was just
10 conveyed to you that a map should be drawn that
11 Strickland -- District 17 should be drawn that Strickland
12 can win. You don't know exactly where it --

13 A Right.

14 Q -- came from?

15 A I think considering incumbency was something
16 they were looking at as a whole for all the senators, so
17 I don't think that was a particular thing to target,
18 well, we are going -- to target -- to use as him as an
19 example. They were trying to accommodate all of the
20 senators, to my knowledge.

21 MR. CANTER: I'm going to project Exhibit 8
22 through Exhibit Share. So this will be marked as Exhibit
23 9. Yeah, excuse me, I said Exhibit 8 inaccurately
24 before. It's Exhibit 9 now.

25 (Deposition Exhibit 9 was marked for

1 identification.)

2 Q BY MR. CANTER: So let me describe this
3 document to you. This represents the enacted SD 17 and
4 also the benchmark SD 17. The blue lines reflect the
5 benchmark SD 17.

6 A Okay.

7 Q The red lines reflect the enacted SD 17.

8 A Okay.

9 Q Does that make sense?

10 A Yes.

11 Q All right. And you will notice that there is
12 some overlap.

13 A Yes.

14 Q Right?

15 There is also a number of dots in there, right?

16 A Okay. Those are dots.

17 Q Yeah, yeah, they are dots, yeah. And the dots
18 are color coordinated based off of racial population
19 statistics.

20 Does that make sense?

21 A Yes.

22 Q So, for example, the blue dots that are in
23 the -- within the red district but not within the blue
24 district is new white citizens added into SD 17.

25 Does that make sense?

1 A Yes.

2 Q All right. It looks to me like a lot of white
3 citizens were added into SD 17. Do you agree?

4 A It's color dots on a map, so I can't tell you
5 the number of people, but yes, it looks --

6 Q Right. All right. I understand that you are
7 having to trust that this is an accurate representation,
8 correct?

9 A That's what -- right.

10 Q So but accepting that, looking at this image,
11 would you agree that a large number of white citizens
12 were added into SD 17?

13 A It's hard to tell the density and all, but it
14 appears that that is the case.

15 Q Okay. If you can take a look at the bottom
16 left, I'll call it southwest portion of this image, which
17 reflects the blue lines for the benchmark plan but
18 doesn't include any of the red map, the enacted plan.

19 Does that make sense?

20 A Say that one more time.

21 Q Yeah. The southwest portion, where its
22 geographic area that was in the benchmark plan --

23 A Uh-huh.

24 Q -- but not in the enacted plan, right?

25 A Okay.

1 Q Are you looking at the same thing?

2 A I think so.

3 Q It looks to me like this population includes a
4 lot of Latino voters.

5 A I can't clearly distinguish the coloring
6 between the green and the orange on the screen, so I
7 actually didn't realize that that was orange until you
8 said that.

9 Q Okay. Okay. So you do see -- do you see that
10 there is a difference between the green dots and the
11 orange/yellow dots?

12 A Somewhat.

13 Q Okay.

14 A They seem to be blurring together a little bit,
15 but that helps.

16 Q Is that helpful?

17 A Yeah, that helps.

18 Q Yeah, maybe if you -- I will try to -- oh,
19 Jesus, I'm sorry.

20 MR. DAVIS: You are good. You can have
21 control.

22 Q BY MR. CANTER: So do you see the image right
23 now?

24 A That's better, yes.

25 Q Yeah. So this is the southwest portion we were

1 just talking about. And the yellow dots are Latino
2 citizens, the green dots are black citizens, and the blue
3 dots are white citizens.

4 Do you agree that a lot of Latino citizens have
5 been taken out of SD 17?

6 A It looks to me that there is a broad spectrum
7 of population. There's a large area of blue. There's an
8 area of orange mixed with green. There's an area here --
9 I mean, I wouldn't know exactly what that represented
10 other than a variety of those different colors.

11 Q Okay. If we can just zoom out again.

12 So a lot of white citizens were added in the
13 top right portion, and it was a mix of citizens that were
14 taken out in the bottom left portion. So does it accord
15 with your understanding of changes to SD 17 that the
16 district has gotten whiter?

17 A I couldn't speak to the exact demographic
18 breakdown of what it was to what it is. This was a -- as
19 I mentioned, this district was about political
20 improvement, and that is what the number -- that's the
21 numbers that I was looking at for this particular
22 district.

23 Q Specifics aside, does it generally accord with
24 your understanding about changes to the composition of
25 SD 17, that it's gotten whiter?

1 A That is what it appears to be on here.

2 Q If you can go to the population summary page on
3 the -- this Senate district map. I don't remember what
4 exhibit number this is.

5 A 8.

6 Q 8. Exhibit 8. Thank you.

7 And do you see that SD 17 has almost 57 percent
8 white population?

9 A Yes.

10 Q Do you think that's a lot?

11 A 57?

12 Q Yeah.

13 A I don't know that that's sufficiently a lot.

14 Q Do you think that's enough to ensure that
15 Senator Strickland can win an election?

16 A That wouldn't have been what I based that on.
17 I would have looked at the political data to determine
18 whether or not I thought it was a district that would win
19 reelection for him.

20 Q What political data?

21 A The same political data we've looked at for
22 all -- that we pull into the precincts, election data,
23 election returns.

24 THE REPORTER: Wait. Say that again. Just
25 start over.

1 THE WITNESS: The same political data that we
2 have discussed that we brought in from the Secretary of
3 State's Office that are election returns.

4 Q BY MR. CANTER: Do you recall whether you
5 looked at data at the county level when determining how
6 to draw the lines for SD 17?

7 A Can you say that one more time? I'm sorry.

8 Q Yeah. So do you recall whether you looked at
9 data at the county level when deciding how to draw the
10 lines for SD 17?

11 A Possibly. I know there is one whole county in
12 the district, so we probably would have looked at county
13 data there. The others we would have looked at probably
14 precinct data because it's divided amongst different
15 precincts.

16 Q Any other layers?

17 A What do you mean "other"?

18 Q Did you look at block level data?

19 A Possibly, if we had to look at splitting a
20 precinct. I don't know if he has any split precincts in
21 this district or not.

22 Q Okay. But you at least looked at precinct
23 level data?

24 A Yes.

25 Q If you go back to Exhibit 8, do you see a bit

1 above SD 17, there is SD 48?

2 A Yes.

3 Q Did you draw SD 48?

4 A Yes.

5 Q Do you recall drawing SD 48?

6 A As a part of the map as a whole, yes.

7 Specifically, no.

8 Q Do you remember having any discussions about SD
9 48?

10 A Not -- there were some, yes, but...

11 Q What were the discussions?

12 A So Senate District 48, there was a discussion
13 about whether that district could be flipped from a
14 Democratic seat to a Republican seat.

15 Q Do you know who had those discussions with you?

16 A Again, these discussions kind of happened in
17 a -- not necessarily one on one. There might be a group
18 discussion or things that had been discussed that are
19 then brought to me. I don't have a specific conversation
20 that I can recall.

21 Q Do you recall whether Senator Kennedy, Chairman
22 Kennedy was part of any discussion about how to change
23 the composition of SD 48?

24 A Yes.

25 Q Do you know who was the senator in SD 48 prior

1 to the 2022 election?

2 A Yes.

3 Q Who?

4 A Senator Michelle Au.

5 Q Do you know whether Senator Au is a person of
6 color?

7 A Yes.

8 Q Is she?

9 A She is. I don't know -- she's Asian. I don't
10 know more specifically.

11 Q Do you think Chairman Kennedy was aware that
12 Senator Au was elected for SD 48 at the time that the
13 redistricting was taking place?

14 A Can you say that one more time? I'm sorry.

15 Q Yeah. Senator -- Chairman Kennedy knew that
16 Senator Au had the seat for SD 48 at that time, right?

17 A Yes.

18 Q And he wanted to get Senator Au out of SD 48?

19 A I don't know that that was exactly the way that
20 would have been put. It's a difference between wanting
21 to make a district more Republican versus Democratic than
22 to say, I want to get rid of someone. I don't think that
23 was ever terminology I heard.

24 Q That's fair.

25 MR. CANTER: I am going to show on Exhibit

1 Share another document, once it's ready. And this is
2 going to be Exhibit 10 for the marking.

3 (Deposition Exhibit 10 was marked for
4 identification.)

5 Q BY MR. CANTER: Just let me know when you see
6 it, Director.

7 A I can see it.

8 Q Oh, great.

9 A It's far back.

10 Q So Director Wright, this is another map, like
11 the last one. So the blue lines represent SD 48 in the
12 benchmark plan, and the red lines represent SD 48 in the
13 enacted plan.

14 Does that make sense?

15 A Yes.

16 Q All right. And it's the same description on
17 the bottom where the dots represent the race of different
18 citizens within the district.

19 Does that make sense?

20 A Yes.

21 Q Would you agree that a lot of white voters were
22 added to SD 48?

23 A Yes.

24 Q Would you agree that a lot of Latino voters
25 were taken out of SD 48?

1 A Yes. It would be helpful if there had been an
2 overlay of the new Senate District 7, because most of
3 that area is the new Senate District 7. So it actually
4 created a new district, that portion. As everything
5 again shifted upward, that's where the new district was
6 placed. And it was -- if you look at Exhibit 8, you will
7 see that on there, but it would have been helpful to have
8 seen that overlay there as well.

9 Q Yeah. Yeah, I guess on page 2 -- it's a good
10 point -- on page 2 of Exhibit 8, you can actually see a
11 blowup of 48 and 7 --

12 A 7.

13 Q -- right under it?

14 A Yes.

15 Q So --

16 A So most of that area you are asking me about
17 that is below the red line, and in that area where there
18 is a large population of Latino and some Asian -- I can't
19 see. I think there's green in there. I can't make it
20 all out -- was part of the population that was used to
21 create the new District 7 there. That is mostly -- that
22 is all within Gwinnett, and there's an extremely diverse
23 district there, as that other district pushes 48
24 northward.

25 Q Were you aware -- or, actually, let me ask

1 this. Was Chairman Kennedy aware that adding white
2 voters to District 48 would cause Senator Au to lose?

3 A I don't believe we discussed adding white
4 voters in an effort to cause her to lose. We discussed
5 adding Republican voters in an effort to make that seat
6 competitive.

7 Q Okay. And how did you seek to accomplish that?

8 A I'm sorry, can you --

9 Q Yeah, sure.

10 A -- rephrase that?

11 Q Yeah. How as the map drawer did you make
12 changes to Senate District 48 to reflect the goal that
13 Senator -- that Chairman Kennedy wanted?

14 A Right. So I think in the creation of
15 District 7 first, once we were able to draw that district
16 there, which we did, of course, take some of the
17 population away from District 48 to fit that new district
18 in Gwinnett, which is a very rapidly growing county, very
19 diverse county, we created that new seat there, pushing
20 48 upward.

21 So that then caused us to make decisions about
22 where do we push District 48, now that it will need to
23 pick up population, and also to make it a more
24 competitive political district. That we would have to go
25 northward, and going northward into Forsyth County and

1 into that area, in the Sugar Hill area, those were some
2 Republican voting areas that would create -- that make --
3 make District 48 a more competitive district.

4 Q It looks to me from Exhibit 10 like those are
5 also -- on the screen, excuse me.

6 A Sorry.

7 Q No, no.

8 It looks to me like on Exhibit 10, that the
9 northern areas added to Senate District 48 are also --
10 have a very large white population?

11 A Well, I don't create race density maps like
12 this, and this is something I have not seen, so this is
13 your analysis of it. That is not something we use or
14 look at when we do this, so this is new to me to look at
15 it like this.

16 Q Okay. Did you draw Senate District 48 while
17 looking at the precinct level layer?

18 A Yes.

19 Q Did you also look at the block layer while
20 drawing Senate District 48?

21 A I don't know that I would have looked at
22 blocks. If I was able to draw that with whole precincts,
23 I wouldn't have zoomed into the block layer. It's
24 possible that I did in some of the Sugar Hill area. It
25 looks like I followed the interstate there, so it's

1 Q Yeah. Okay.

2 And then Chairman Rich came and provided
3 direction, either directly to you, or Chairman Rich spoke
4 to other members of the House and they provided direction
5 to you through Chairman Rich?

6 A Yes.

7 Q Am I missing anything about people who provided
8 direction to you about how to draw this House district?

9 A I'm not sure what you mean.

10 Q Are there other people that directed you on how
11 to draw the House plan that I haven't mentioned already?

12 A Counsel was involved in consulting on -- on the
13 drawing of the maps as well.

14 Q Anyone else other than your counsel or those
15 that I've mentioned?

16 A Not that I can recall.

17 Q When you are drawing at the House level, are
18 you more often looking at the block layer?

19 A It would depend on which part of the state you
20 were in. In the more rural parts of the state, as you
21 can see on the map, the districts are larger --

22 Q Sure.

23 A -- and made up of whole counties. So in those
24 cases, it's probably more county and precinct based in
25 terms of what you use.

1 major features to split a district. It makes it easier.
2 Street -- major interstate or a street or something.

3 Q Do you recall drawing House District 49?

4 A I recall working on House District 49.

5 Q What do you recall about it?

6 A There was discussion and work in that area of
7 how to draw those districts there. I think we did draw a
8 new district that's just below that, the 53rd.

9 Q The 53rd? I see that, yes.

10 A Uh-huh. That was an open seat, so trying to
11 configure adding an open seat in that area between the
12 other districts there, and also trying to make them
13 politically competitive in that area.

14 Q Who was the elected official for House -- the
15 area where House District 49 is before -- you know, under
16 the benchmark plan?

17 A I believe that's Representative Chuck Martin.

18 Q Okay. Did you speak with Representative Martin
19 about the composition of the new House District 49?

20 A I believe I did speak with him at some point.

21 Q What did he say?

22 A I don't remember specifically what he said.

23 Q Generally?

24 A I mean, of course, drawing a district that --
25 you know, and any member when you are at this level, you

1 are talking about the precinct level, they have precincts
2 that they have connections to, whether it's family lives
3 there, a school they went to, they have good support
4 there, whatnot. So when you discuss those precincts,
5 they want to make sure those precincts are in their
6 district if possible.

7 Q Did you discuss with Chairman Rich the
8 composition of HD 49?

9 A I would expect that she would have been present
10 with conversations that were had in that area.

11 Q Why?

12 A She was usually present when we met with other
13 members discussing the districts in certain regions.

14 Q Did the racial composition of HD 49 ever come
15 up in discussions?

16 A I don't recall that coming up in discussions.

17 MR. CANTER: I'd like to -- I'd like to offer
18 for marked Exhibit 12 another document on Exhibit Share.

19 (Deposition Exhibit 12 was marked for
20 identification.)

21 Q BY MR. CANTER: So this is the same type of
22 image, once you see it on the screen.

23 MR. DAVIS: Can you guys -- is it showing?

24 THE WITNESS: Yeah, I can see it. It's kind of
25 far back, but if you zoom in, it might cut off.

1 MR. DAVIS: You want me to zoom in?

2 THE WITNESS: It may cut some -- okay. Yeah,
3 that's good. That's good.

4 Q BY MR. CANTER: So the principles for this
5 document are the same as the two that we see before. The
6 blue lines reflect the benchmark of House District 49,
7 and the red lines reflect the enacted House District 49.

8 Does that make sense?

9 A Remind me one more time. The blue is the old
10 and the red is the new?

11 Q Yeah. Blue before. That's how I remember it.

12 A Blue before, there you go. Okay.

13 Q Do you agree that a lot of white people were
14 added into HD 49?

15 A It does look to be that from your image.

16 Q Was a goal of Chairman Rich when drawing the
17 districts in the House map to retain the core of a prior
18 district?

19 A I think that was something that was considered.
20 I don't know that that was something that was focused
21 heavily upon. Sometimes that's easier in some areas than
22 others, but it was not the -- not a top priority but
23 something that was considered.

24 Q When you say it was considered, do you mean
25 that it was considered as a factor to bake into the

1 drawing or as a factor not to bake into the drawing?

2 A So in a lot of the districts, it's easier to
3 look at cores of districts where a previous district had
4 been. From things we've heard, a lot of the people in
5 the public hearings, you know, wanted to maintain
6 consistent representation with the -- the representative
7 or senator that they had had before, so we do try to
8 consider, if we can try and draw a district in a similar
9 way, to maintain as much of that as we could, but also
10 knowing we have to make changes due to growth and
11 population.

12 In this particular area, in the Metro area, we
13 know there's been a ton of population growth, so that's
14 going to involve, of course, in this case, adding a
15 totally new district that had not been there before. I
16 think we actually did that in Gwinnett as well. So in
17 that same region, when you are adding new districts,
18 there were open seats that -- yeah, well, that one I
19 think didn't run again. But it does make a difference in
20 trying to maintain, because the districts don't
21 necessarily look the same anymore as they move due to
22 that shifts in population. You can't just always keep
23 them just as they were.

24 Q Do you think the new HD 49 retains the core of
25 the benchmark HD 49?

1 A It retains some of its core. I mean, there's
2 obviously overlap in this map. I don't know particulars
3 on the value of how much that population is that was
4 there before. Obviously, it's -- there's some, but it
5 did shift.

6 Q Would you say -- when you said it retained some
7 of the core, do you think -- would you say that it
8 retains more than half or less than half of the core?

9 A That's speculation. I have no idea.

10 Q Okay. When drawing this district, do you
11 recall whether you looked at precinct level data?

12 A Yes. I would most likely have been working
13 with precincts.

14 Q Do you recall whether you also looked at block
15 level data?

16 A I do not recall specifically looking at the
17 block level. They do have some precinct boundaries that
18 are a little unusual sometimes.

19 Q Yeah.

20 A So sometimes you do have to look at that, if
21 they have non -- they have some noncontiguous pieces --

22 Q Yeah.

23 A -- of precincts up there, so you do have to
24 look at it sometimes.

25 Q Yeah, if you don't mind, I'm going to try to

1 zoom in on a portion in the enacted, a little -- where it
2 sort of looks like there's like a person pointing in the
3 left direction --

4 A Uh-huh.

5 Q -- that's not part of the district. Do you see
6 that?

7 A Yes.

8 Q Right.

9 Is that one of these areas that you mentioned
10 that might be a little -- I think you said maybe a little
11 noncontiguous, is how you put it?

12 A I don't know if that one is noncontiguous.

13 Q Yeah.

14 A That might be part of a city boundary there.

15 Q Okay.

16 A There's a little city of Mountain Park there.
17 It could be a portion of that. It could be a city limit
18 from one of the other cities. They do tend to follow the
19 city limit boundaries for their precincts in that area,
20 which tends to make them look a little more unusual.

21 Q Okay. Right now you're not sure whether
22 that's -- that somewhat odd shape reflects a split county
23 or a split precinct?

24 A I would expect that is a precinct boundary,
25 because I wouldn't have drawn a split precinct that

1 looked like that.

2 Q Okay. Looking at this document -- and we can
3 zoom out if that's helpful -- do you see anywhere that
4 looks like a split precinct?

5 A Without the precincts, it's hard for me to
6 tell. They're on the exhibit, but it's hard to see
7 because it's not zoomed in very well either. So I can't
8 say for sure without having that.

9 Q We can put the Exhibit Share document away.
10 And if you can go to the Georgia House
11 District, which I think was marked as --

12 A 11.

13 Q -- 11, thank you. And again, on page 2, you
14 can see House District 104.

15 Do you see that?

16 A 104?

17 Q Yes, ma'am.

18 A Yes.

19 Q Do you remember drawing House District 104?

20 A Yes.

21 Q Who was the representative of that district?

22 A That would be Representative Chuck Efstoration.

23 (Court reporter clarification.)

24 Q BY MR. CANTER: What did you and the
25 representative discuss -- did you discuss with the

1 representative about HD 104?

2 A I don't recall discussing it with him prior
3 to -- well, I don't know when I discussed it with him.
4 There was a time that I spoke with him. I don't recall
5 if that was before or after the map was in a format that
6 was presented. I don't remember when it was.

7 Q Did you speak with Chairman Rich about HD 104?

8 A Yes, I believe she would have been involved in
9 those conversations.

10 Q Were there any conversations with Chairman Rich
11 that didn't include Representative Efstration?

12 A Efstration. I couldn't say. I'm not sure.

13 Q What did you talk about in terms of the
14 composition in drawing a new HD 104?

15 A I think that if -- in some capacity, I was told
16 that 104, of course, they want to ensure that it
17 maintains as -- oh, it got dark -- a Republican district,
18 that an electable district for him, and that to draw that
19 district into Barrow County would be the direction for
20 that one to move, to pick up population. That would
21 continue to maintain that district as a Republican
22 district.

23 Q Just so I understand, were you directed to add
24 Barrow County into HD 104?

25 A Again, you know, we've talked about this being

1 a collaborative thing. At some point in conversation I
2 think that was mentioned. I don't remember being, you
3 know, directly told do this and that was how it happened,
4 but the discussion was there that taking it into Barrow
5 County. And I think all of these districts kind of
6 pushing out a little bit from where they had been because
7 of the growth in the Metro area, especially in Gwinnett,
8 them pushing outward is not -- that was sort of the side
9 effect of the growth in the -- in the area anyway, that
10 they were going to push out to some degree in some areas.
11 And so that one pushing into Barrow to pick up Republican
12 population that votes Republican to ensure that district
13 to maintain.

14 Q Do you know the racial composition of sort of
15 the middle of Barrow County?

16 A No, I do not.

17 Q And I appreciate you bringing this up.
18 You've -- I agree we talked about it and you mentioned
19 that sometimes you had conversations about how the
20 composition of lines should be drawn.

21 Ultimately, did you always follow the
22 directions of Chairman Rich or another member of the
23 House when drawing the House lines?

24 A So making changes to the map would usually have
25 been prompted by a discussion with Chairman Rich or

1 that area or how many people that is.

2 Q Is the inclusion of a large white population
3 into 104 and the exclusion of a large Latino population
4 out of 104 consistent with your understanding of how the
5 new 104 was, in fact, drawn?

6 A Can you repeat that one more time?

7 Q Yeah. Is the inclusion of a large white
8 population into 104 and the exclusion of a large Latino
9 population out of 104 consistent with your understanding
10 of how the new 104 was drawn?

11 A I don't recall having discussions about adding
12 white population or removing Latino population. I think
13 the political goal of this district was what the
14 objective was, to push it into Barrow County.

15 I also know we added some new seats in Gwinnett
16 that would have pushed that Latino population into
17 districts where they would have been, you know, a large
18 portion of those districts in that area as this district
19 shifted outward. So the political objective, combined
20 with new districts being drawn, I think that's the
21 effect, and that's why this district is shaped like it
22 is.

23 Q When you drew this district, were you looking
24 at the precinct layer?

25 A Yes.

1 any block level changes when drawing HD 104?

2 A No, I don't recall whether I made any block
3 level changes probably on a lot of these.

4 Q Okay.

5 A It's a lot.

6 Q You do know that you made some block level
7 changes?

8 A I'm sure that I did in some places. Like I
9 mentioned, you know, if there were block precincts that
10 are noncontiguous, you are going to have block splits
11 between those two, because you have to.

12 Cobb County is gonna have a lot of block level
13 work because they have a lot of precinct split,
14 noncontiguous pieces in islands in their precincts, so
15 it's -- it's going to happen in certain places that I
16 have to look at the blocks. But that is, again, I
17 usually try to work with the precincts to avoid blocks
18 and let that level of work, if I can avoid that.

19 Q Can you please take a look on page 2 of the
20 House district document we are looking at right now of HD
21 48?

22 A Yes.

23 Q Do you recall drawing HD 48?

24 A Yes.

25 Q Who was the representative of HD 48?

1 A I -- I think that it was representative Mary
2 Robichaux.

3 Q Did you ever speak with Representative
4 Robichaux about the new composition of HD 48?

5 A No, I did not.

6 Q Did you ever speak with Representative Rich
7 about HD 48 -- Chairman Rich, excuse me?

8 A Yes. I think this area was worked on all
9 together. So we've talked about 49 and this whole area,
10 so that would have been as a whole.

11 Q I believe when we talked about 49, you
12 mentioned 53. What --

13 A Yes.

14 Q Can you elaborate on what you talked about with
15 48?

16 A I'm sorry, so 50 --

17 Q You talked -- when I asked about HD 49, I
18 recall you talking about HD 53.

19 A Correct.

20 Q But now you are saying that you also, as part
21 of the discussion, were looking at HD 48?

22 A So we don't draw districts in isolation one at
23 a time. You are looking at, sometimes it's a county
24 delegation as a whole. They all -- you kind of have to
25 work as a group because when you make a change to one,

1 you are going to move another district. So when you
2 reshape, push one district this way, you are going to
3 have to fix that here. So you kind of work with all of
4 them at the same time.

5 So this particular region would have been
6 something that was looked at as a group, not one district
7 at a time.

8 Q Were you directed to draw HD 48 in some way?

9 A No, I don't recall being told to draw 48 any
10 particular way. I actually think that in working on some
11 of the surrounding districts and then looking at the
12 political breakdown afterwards, we -- I realized that it
13 had then become a competitive district. That wasn't
14 really the goal. It was the effect of working on the
15 other area.

16 Q Can you take a look at HD 44, on page -- on the
17 same page?

18 A I see it. It took me a minute, yes.

19 Q Yeah. Do you remember drawing HD 44?

20 A Yes.

21 Q Who was the representative of HD 44?

22 A I'm not certain.

23 Q Okay. That's fine.

24 A I think I know, but I don't want to misspeak,
25 so I'm not gonna say.

1 Q I promise I won't get upset if you misspeak.
2 Who do you think?

3 A There's a lot of members. We have 236, so I
4 feel like I'm on the spot when you are asking me who is
5 in every one of them.

6 Is that -- is that Don Parsons? Don Parsons.

7 Q I think that's right. I think that's right.

8 Did you speak with Representative Parsons about
9 HD 44?

10 A I do not recall speaking with him, no.

11 Q Did you speak with Chairman Rich about HD 44?

12 A This would have been, again, part of an area
13 discussion, the districts in that vicinity. So
14 specifically that one district, I don't recall a
15 conversation.

16 Q What were the -- in that area, what were your
17 priorities? What were you directed to do about drawing
18 the map?

19 A There is fairly large growth in that area
20 around House District 35, and that's the college area.
21 There's a school there, so there's a lot of growth in
22 population. That school has really hugely grown in the
23 last few years, so they've had a lot of change in the
24 area there.

25 So in terms of -- that actually, I think, is a

1 change to the districts there, which push some of that
2 population up into Cherokee as that district there was
3 formed, 35. And talking about 35, 44, 22, 20, in that
4 whole area.

5 MR. CANTER: I'd like to put up on Exhibit
6 Share Exhibit 14.

7 Q BY MR. CANTER: And Director Wright, please let
8 me know when you see it.

9 (Deposition Exhibit 14 was marked for
10 identification.)

11 MR. DAVIS: It should be up there now.

12 THE WITNESS: It is. If you can zoom in some
13 more.

14 Q BY MR. CANTER: You recall from before, this is
15 another one of these maps where blue is before and red is
16 after?

17 A Yes.

18 Q Does that sound good?

19 A Yes.

20 Q All right. And the dots -- the colors of the
21 dots represents the same racial composition of the
22 benchmark in enacted districts.

23 It looks -- would you agree that a large number
24 of white voters -- white persons, excuse me, were added
25 into HD 44?

1 A This one is hard to see. It looks to be a
2 pretty disperse spread of different population in there,
3 because there seems to be a fairly good bit of -- I think
4 that's Hispanic population in there as well. It's kind
5 of dispersed between.

6 Q Okay. Do you think that the new HD 44 retains
7 the core of the old HD 44?

8 A As we said before, it retained some of the
9 core.

10 Q Okay.

11 A I don't know how much. I'd have to, you know,
12 do further digging to tell you how much of the core that
13 it retains. It does have some. But again, this is
14 another one of those everything expanding and pushing
15 outward. This pushed into Cherokee County, and
16 everything below is pushing the districts that way. So
17 it did change. It does retain some of the core.

18 Q Did you ever have a discussion about a
19 threshold of core retention that would be sort of
20 satisfactory for the legislators or for anyone else?

21 A No.

22 Q So there is no notion of enough core retention?

23 A Not to my knowledge.

24 MR. CANTER: What time are we at?

25 THE VIDEOGRAPHER: We have been going one hour

1 Census data until the time when all three of the final
2 maps were published, so the maps that ultimately were
3 passed by Governor Kemp became public. So this is after
4 you --

5 A Can I ask you to clarify what you mean by a
6 "block equivalency file" to make sure we're on the same
7 page?

8 Q Yeah. So it's a spreadsheet that request --
9 that reflects block data.

10 A Like block with a district assignment?

11 Q Correct.

12 A Okay. Just making sure we're talking about the
13 same thing.

14 So during the process of the draft maps coming
15 out and being made available, yes, I did receive requests
16 for block equivalency files.

17 Q From whom?

18 A I know that Shalamar Parham asked for them.
19 And there -- I don't know if there were other people who
20 did, but those -- I know she communicated directly with
21 me. So I don't know if there were others. There may
22 have been, but I know she did.

23 Q Do you know why?

24 A Do I know why she wanted them?

25 Q Yeah.

1 A I figured she was going to re-create those in
2 her software or their office. She worked for the House
3 Democratic Caucus, so I figured that's what they would be
4 using them for.

5 Q Did anyone else ask for block equivalency
6 files?

7 A I don't recollect anyone else, but that could
8 have gone to other staff as well.

9 Q Other staff you mean in the LCRO?

10 A Yes.

11 Q So Mr. Knight?

12 A It could have -- any requests would come
13 through our office manager, and then she would hand them
14 or give them to staff --

15 Q Okay.

16 A -- to handle.

17 Q So it could have gone to Mr. Knight?

18 A Could have.

19 Q Could have gone to Mr. O'Connor?

20 A Could have. I would think if it was an
21 e-mailed request, it would have been provided already in
22 the documents.

23 Q What do you mean by that? Sorry.

24 A The way the -- all the information that was
25 discovery, all those documents, if there was a request

1 Q And when you answer that, is that just within
2 the redistricting period or is that even after the maps
3 were published?

4 A Even after. I mean, requests don't come to me
5 and then to them, so they -- like I said, they come
6 through our office manager. If someone asks for some
7 information, it could have been fielded out to anyone in
8 our office to provide the answer to that.

9 Q You mentioned that Ms. Shalamar?

10 A Shalamar Parham.

11 Q Yeah, Ms. Shalamar asked for block equivalency
12 data?

13 A Yes.

14 Q Did you give it to her?

15 A Yes.

16 Q Did she have any follow-up questions?

17 A No.

18 Q Can you recall providing block equivalency data
19 to anyone else?

20 A She's the only particular individual I recall
21 providing that or asking for that file.

22 Q So generally, do you recall other people asking
23 for block equivalency data?

24 A What is the distinction in the question?

25 Q Because you said particularly, and so I'm

1 A Well, as I mentioned earlier, the inclusion of
2 an educational video, that was actually my idea. I
3 wanted to provide the people who cared enough to come out
4 to the public hearings the opportunity to learn a little
5 bit about the process, rather than just come up and talk
6 about things without knowing some of the detail or the
7 reasons why we do this. So that video was a new feature
8 to add.

9 I also -- I don't know if related to the
10 hearings, per se, the Zoom platform is new. We didn't
11 have that before. We have two public hearings on Zoom at
12 this time. That was definitely not something we did ten
13 years before. To allow people to not just watch but also
14 participate from -- from that platform.

15 I think all of the public hearings were
16 streamed at this time, and I don't know that they were in
17 2011. They may have been recorded, but I don't know that
18 they were streamed to be able to watch it live as it was
19 taking place. So that was new this time.

20 And the comment portal we had on the website
21 was also a new feature at this time, to allow people to
22 submit comments, and those comments are actually posted
23 so that they were viewable throughout the whole process.
24 I think the comment portal was left up until through the
25 end of the year, even following the adoption of the maps.

1 And it actually might still be there now. I'm not even a
2 hundred percent sure if it's still active, but it might
3 be still active now, not to submit, but to at least
4 review comments.

5 So all of those things were new in 2021 that we
6 did not do or have the ability to do in 2011.

7 Q Do you recall if the special session timeline
8 was similar in 2011 to 2021, the actual time in special
9 session?

10 A 2011, the special session was in the summer.
11 It was August, I believe. It was around maybe two, two
12 and a half weeks. It was a relatively short time period.
13 I mean, it was, like I said, in the summer. So 2021, we
14 were in session. Maybe -- I don't know if it was exact.
15 Maybe a little longer than that or around that time
16 period, but it was in November as opposed to August, so
17 much later in the year.

18 Q Okay. What was generally your role in the
19 redistricting process in 2011?

20 A Similar to what it was this time. I worked on
21 drawing those maps, worked with the legislators to draw
22 the -- the statewide maps for the Senate and
23 Congressional and a large portion of the House map in
24 2011.

25 Q Did you follow a similar process in drawing the

1 A Traditionally, we renumber the House plan
2 following finalizing a map. And it follows a pattern
3 from the top left, moving towards the bottom right,
4 trying to, number one, if I can maintain the same
5 district numbers that were there previously, that does
6 help with a lot of things in the counties for the
7 elections, and also for the members. But I renumber to
8 try and keep delegations in similar numbering patterns
9 and things like that as it moves through. It's not a
10 perfect science, but that is traditionally what we do in
11 the House.

12 Q So is it unusual for House District numbers to
13 change for Georgia voters following a Census and a redraw
14 of the maps?

15 A No, that's not unusual.

16 Q You talked to Mr. Canter a little bit about the
17 political data that you had available and the process of,
18 I guess, disaggregating or imputing that data to blocks.

19 Do you recall that?

20 A Yes.

21 Q And so is it correct then that if you were
22 looking at Census block data, each Census block has
23 political data in it even though it's an estimate, right?

24 A Right. As you move blocks, you would see a
25 change in not just demographic data but also in political

1 data as you move those blocks.

2 Q And when drawing the maps, you talked about
3 different meetings with groups. Let's start with the --
4 the Senate groups that you met with. Was the political
5 data for each district an important consideration for the
6 members when they were drawing the maps?

7 A Yes.

8 Q And for the House maps, was that also -- was
9 political data also an important consideration?

10 A Yes.

11 Q And for the congressional maps in that
12 leadership meeting, was political data an important
13 consideration?

14 A Yes.

15 Q Mr. Canter talked with you about the -- the
16 different factors of redistricting that the committee
17 adopted.

18 Do you recall that?

19 A Yes.

20 Q Can you just describe briefly, as a map drawer,
21 how do you go about trying to balance -- because I'm
22 assuming there is a competing interest between a lot of
23 those different factors. How do you go about approaching
24 balancing those different factors?

25 A It's very difficult, and in certain situations

1 you may have to give on one factor to accommodate another
2 factor. For instance, maybe population requires that I
3 have to divide a county because I can't fit this entire
4 county into this district as it is, and the -- and the
5 district nearby needs additional population. So although
6 I would prefer to keep that county whole and intact, I
7 might have to divide it so that the population is
8 balanced between the two.

9 But it is a give and take. There is not a
10 specific method or rhyme or reason as to how you choose
11 what takes precedence in any given situation. And
12 sometimes that's driven by what the legislator is asking
13 for.

14 Q And so it becomes, at some level, a policy
15 decision of which one the legislator wants to prioritize
16 in that situation?

17 A Yes, it can.

18 Q Mr. Canter talked with you about using the
19 different racial data available to you, and Maptitude
20 will allow you to color a district by the racial makeup
21 of the population; is that right?

22 A Can you say that one more time?

23 Q Yeah. Let me ask it this way.

24 Does Maptitude allow you to color different
25 parts of the district by the racial makeup of the

1 population in that area?

2 A You could create a theme that would do that, I
3 think using the data, whatever field you selected, and --
4 and setting a theme that way, yes, you could.

5 Q In drawing the House, Senate, and Congressional
6 plans, did you ever use a theme of racial coloring on a
7 map?

8 A No, I did not.

9 Q We talked a little bit, too, about discussions
10 with the House Democratic Caucus. Did you meet with
11 members of the Democratic party and work on redistricting
12 maps for members of the Democratic party in the 2021
13 cycle?

14 A Yes.

15 Q And so those legislators had equal access to
16 your office if they wanted to come in and draw a map?

17 A Yes.

18 Q And do you recall ever receiving a request from
19 the House or Senate Democratic Caucus that your office
20 was not -- did not respond to and provide information in
21 response to?

22 A Are you asking -- can you say that one more
23 time?

24 Q Sure. So you mentioned Shalamar -- and I'm
25 forgetting her last name.

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C E R T I F I C A T E

STATE OF GEORGIA)
) ss:
COUNTY OF DEKALB)

I HEREBY CERTIFY that the foregoing transcript was taken before me; that I was then and there a Registered Professional Reporter and Registered Merit Reporter, License No. 6595-1471-3597-5424 for the State of Georgia, and License No. 14315 in the State of California; that the witness before testifying was duly sworn by me to testify to the whole truth; that the questions propounded by counsel and the answers of the witness thereto were taken down by me in shorthand and thereafter transcribed under my direction; and that the foregoing pages contain a full, true, and accurate transcript of all deposition testimony and proceedings had, all done to the best of my skill and ability.

I FURTHER CERTIFY that I am in no way related to, nor employed by any of the parties hereto, nor am I in any way interested in the outcome.

I have no direct contract with any party in this action and my compensation is based solely on the terms of my subcontractor agreement.

Nothing in the arrangements made for this proceeding impacts my absolute commitment to serve all parties as an impartial officer of the court.

DATED at Dunwoody, Georgia, this 8th day of February, 2023.



MARCELLA L. DAUGHTRY, RPR, RMR
GA License No. 6595-1471-3597-5424
CA CSR 14315

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IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

GEORGIA STATE CONFERENCE
OF THE NAACP; GEORGIA
COALITION FOR THE PEOPLE'S
AGENDA, INC.; GALEO LATINO
COMMUNITY DEVELOPMENT FUND,
INC.,

CIVIL ACTION NO.

Plaintiffs,

1:21-CV-5338-ELB-
SCJ-SDG

vs.

STATE OF GEORGIA; BRIAN
KEMP, in his official
capacity as the Governor
of the State of Georgia;
BRAD RAFFENSPERGER, in his
official capacity as the
Secretary of State of
Georgia,

Defendants.

VIDEOTAPED DEPOSITION OF ROBERT (ROB) STRANGIA
APPEARING REMOTE FROM
ATLANTA, GEORGIA
FEBRUARY 24, 2023
11:01 A.M. EASTERN

Reported Remotely By:
Judith L. Leitz Moran,
RPR, RSA, CCR-B-2312
APPEARING REMOTELY

1 This is your LinkedIn profile, right?

2 A Yes.

3 Q And you created this?

4 A Yes.

5 Q And -- and is it up-to-date?

6 A I haven't looked at it in a while.

7 Q Okay. Approximately when was the last
8 time you updated your LinkedIn if you recall?

9 A It may have been as much as 10 years ago,
10 5 or 10 years ago.

11 Q Okay. Well, let's -- maybe we can take a
12 look at the -- the GIS Manager description.

13 A Uh-huh.

14 Q Here it says you -- you worked from
15 February 1996 to the present as the GIS Manager for
16 the Georgia General Assembly; isn't that -- that's
17 right?

18 A That is correct.

19 Q And here kind of under the first bullet
20 it says that you "Provide the primary technical
21 support for all aspects of the legislative &
22 Congressional Redistricting GIS System." Do you
23 see that?

24 A Yes.

25 Q And it says, "Including database design &

1 data to blocks based on the voting age population
2 of those blocks.

3 So it's an estimate, it's not -- it's --
4 you know, it's not -- you know, it's not true data,
5 it's just -- it's just an estimate.

6 Q So -- so how does -- how does -- how does
7 the allocation work?

8 A Okay. So you have the precinct, which is
9 not a census unit of geography, but you can only
10 build legislative districts by using census
11 geography.

12 And the -- keep in mind that election
13 results are captured by precinct level. So a
14 precinct can have -- you know, you can have a dozen
15 blocks in it.

16 Q Uh-huh.

17 A So with the blocks you would have no way
18 of knowing, any of those blocks, you would have no
19 way of knowing the registration data or election
20 results for any of those blocks in there because
21 the data was not collected at those.

22 So at the process in Maptitude and I
23 think it might have been referring to with formula,
24 it's more of a process.

25 But when it's allocated through Maptitude

1 you can choose how to allocate that data to the
2 block.

3 So, for instance, let's just make it
4 simple, let's say a block has -- or let's say a
5 precinct only has two blocks in it, but 60 percent
6 of the population -- of the voting age population
7 is in one of the blocks but only 40 percent of the
8 voting age population is in the other blocks.

9 So the voting and registration data will
10 be allocated to those blocks based on the voting
11 age population.

12 So it's a guess. You don't know if --
13 you don't know if the 40 -- the people that all
14 live in the 40 percent, you don't know if -- you
15 really don't know if all the Republicans would live
16 on one side and all the Democrats would live on
17 other side, you wouldn't know that. This is just
18 doing it based on voting age population.

19 Q Okay. So just so I understand, the
20 precinct has an overall partisan break --
21 breakdown, right? So let's say it's 50/50.

22 A Yes.

23 Q And what -- and what Maptitude would do
24 is it would assume that each of the blocks has that
25 same breakdown, right?

1 A No, it's -- it's going to -- well, first
2 of all, it's not going to assume anything. You
3 have to tell it how to allocate it.

4 Q Okay.

5 A So we choose to allocate it by using the
6 voting age population. So it's going to allocate
7 it based on the voting age population.

8 In other words, overall if 60 percent of
9 the one -- the block that's 60 percent of the
10 population, of voting age population, and the block
11 that's 40 percent, it's going to allocate 60
12 percent of the overall votes or registration data,
13 whatever data you're bringing down from the
14 precinct. It's going to allocate 60 percent to the
15 side that has 60 percent population and 40 percent
16 of the votes to the side that has 40 percent.

17 Q Right. So I think I understand that.

18 A Okay.

19 Q Maybe I didn't formulate my question
20 well. So take -- take a precinct that's 60 percent
21 Democratic and 40 percent --

22 A Uh-huh.

23 Q -- Republican, okay?

24 A Yep.

25 Q Would each of the blocks in that precinct

1 also be -- would Maptitude show each of the blocks
2 in that precinct as also having 60 percent
3 Democratic and 40 percent Republican?

4 A Yes, it would.

5 Q Okay. That's -- that's what I was trying
6 to understand.

7 A It may not be accurate, but -- but yes,
8 that's what it would show.

9 Q Okay. So if you have a -- let's say you
10 have a precinct with two blocks, okay?

11 A Uh-huh.

12 Q The one block has a hundred Black voters
13 of voting age population, and the other block has a
14 hundred white voters of voting age population --

15 A Uh-huh.

16 Q -- and suppose all of the Black voters
17 are Democrats and all of the white voters are
18 Republicans, okay, just for -- just for this.

19 If you move the block -- overall it's
20 50/50 Democratic/Republican, okay? Do you get
21 that?

22 A All precincts 50/50 Democrat/Republican.

23 Q Right.

24 A Okay.

25 Q If you move one of those blocks from that

1 district to another district in Maptitude --

2 A Uh-huh.

3 Q -- would Maptitude show that block as
4 being 50 percent Republican and 50 percent
5 Democratic even though it's a hundred percent
6 Democratic, for example, and 0 percent Republican?

7 A All right, I lost you. I'm sorry, I lost
8 you there.

9 Q That's fair. I'm -- let me try to do
10 this. Let's start -- I'll start from the
11 beginning.

12 Two blocks in a precinct, you have that,
13 right?

14 A Two blocks, yes.

15 Q Each of them have a hundred people in
16 them, so 200 people total. Block A has a hundred
17 Black Democrats, okay?

18 A Okay. So -- so half of the one is -- is
19 -- well, I mean, how would you know they're Black
20 Democrats, we wouldn't know that, we wouldn't
21 anything that says that.

22 Q Right. I'm just saying, assume that
23 there's a hundred Black Democrats in that precinct.

24 A Well, we could assume --

25 Q Sorry, in that -- in that block.

1 A Yeah, I mean, you would not be -- you
2 wouldn't be -- there was -- there was no way that
3 we could tell that with our database.

4 Q Exactly. I understand that, but
5 just hear me out here, okay?

6 A All right.

7 Q That -- the way your database works is
8 that that block would show 50 percent Republican
9 and 50 percent Democratic, right?

10 A If -- if the -- if the -- if the overall
11 precinct was 50/50, yes.

12 Q Right. So -- so -- and if you -- so then
13 if you move that block out of that district, it
14 would be showing, you know, in terms of political
15 data 50 percent Republican, 50 percent Democratic?

16 A The data's not going to change when you
17 move it out.

18 Q Right. So --

19 A So it's -- you know, it's going to be the
20 same.

21 Q So it would show 50 percent Democratic
22 and 50 percent Republican, right?

23 A Yes.

24 Q And the same would be true for the other
25 block that's, you know, a hundred -- a hundred

1 Republicans?

2 A Uh-huh.

3 Q So if you were trying to maximize a
4 Republican district, for example, you wouldn't be
5 able to do that by moving a block from a precinct
6 into another district at -- because you wouldn't
7 be -- you know, accurately it would be hard to tell
8 what the actual political makeup of that block is,
9 right?

10 A Yeah. If you're trying to move an
11 individual block, that's really not accurate --
12 it's not accurate trying to move an individual
13 block.

14 You know, larger levels of geography,
15 yes, but not at the block level is not -- it's not
16 -- it's -- it's an estimate.

17 Q And you have -- but if you were trying to
18 move people based on race, that exists at the block
19 level, right?

20 A Yes, it does.

21 Q So you would know exactly how many people
22 of a particular race are in -- are in the block?

23 A Yes, you would.

24 MR. DAVIS: Okay. We've been going for
25 another hour. It's about 45 minutes. Can we take

1 Q And what is the Jungle U.S. Senate
2 Election?

3 A That was the special -- the special
4 senate election that was held during the general
5 election. That's where it was no -- there was no
6 political party candidate, it was just the -- the
7 special election.

8 Q And what do you mean by "we would need
9 them to fix the Congress, House, and Senate data"?

10 A That they didn't -- they didn't zero out
11 the data like we had requested for the noncontested
12 house, senate and congressional races.

13 Q Okay. I'm going to get off this for a
14 second. Whoops, that didn't work.

15 (Deposition Exhibit 7 marked.)

16 BY MR. DAVIS:

17 Q I'm going to introduce another document.
18 Can you see this document?

19 A Yes.

20 Q I'll give you a little bit of time to
21 read it. Let me know when you're ready.

22 A Yep.

23 Okay. Yep, I got it.

24 Q Okay. Great. So this is an email dated
25 August 25th, 2021, right?

1 A Yes.

2 Q From you to Gina Wright, Brian Knight,
3 Dan O'Conner, Maggie Wigton and Gabe Mesriah?

4 A Yeah, that's -- that's our entire office.

5 Q So all those -- all those people work for
6 the Legislative Congressional Reapportionment
7 Office?

8 A At that time, yes.

9 Q At the time. And here you state that
10 you've "attached the list of formula fields that I
11 used to allocate the 2020 Election Data into the
12 TIGER2020 Geography"?

13 A Yes.

14 Q Is that allocation process the allocation
15 process we were talking about earlier from --

16 A Yes, it is.

17 Q And you say so all of the Election Data
18 Fields were allocated using 2020 VAP data?

19 A Yes.

20 Q What do you mean -- do you see this last
21 sentence here when you say: "For example, BLREG20
22 (Black Registration) was allocated by BLACK VAP,
23 and HREG20 (Hispanic Registration) was allocated by
24 HISPANIC VAP."

25 What do you mean by that?

1 A So -- well, as we discussed earlier, when
2 we're allocating the data down we're using voting
3 age population.

4 For those fields, it's more accurate to
5 allocate it by -- the Black registration by -- by
6 the BLACK VAP, and the Hispanic by the HISPANIC VAP
7 and, you know, so forth, so.

8 Q What do you mean by "allocate it by BLACK
9 VAP," I guess, is my question?

10 A Well, because we -- well, as we discussed
11 earlier, the precinct -- the voter registration
12 data is at the precinct level.

13 Q Uh-huh.

14 A And we're -- we're trying to estimate
15 what this is at the block level.

16 So when you're allocating the election
17 data using the voting age population with the
18 registration data, it's the same thing except with
19 the -- the different races you can allocate it --
20 you know, I'm trying to be as accurate as possible.

21 So it's more accurate to allocate Black
22 registration by BLACK VAP and Hispanic by HISPANIC
23 VAP when you're trying to allocate from the
24 precinct geography down to the block level
25 geography.

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C E R T I F I C A T E

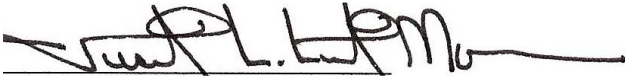
Deposition of: ROBERT (ROB) STRANGIA
Date of Deposition: FEBRUARY 24, 2023

STATE OF GEORGIA:

I hereby certify that the foregoing transcript was stenographically recorded by me via Zoom as stated in the caption. The deponent was duly sworn to tell the truth, the whole truth, and nothing but the truth. And the colloquies, statements, questions and answers thereto were reduced to typewriting under my direction and supervision and the deposition is a true and correct record, to the best of my ability, of the testimony/evidence given by the deponent.

I further certify that I am not a relative or employee or attorney or counsel to any of the parties in the case, nor am I a relative or employee of such attorney or counsel, nor am I financially interested in the action.

This, the 14th day of March 2023.



Judith L. Leitz Moran, CCR-B-2312
Registered Professional Reporter

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

GEORGIA STATE CONFERENCE)
OF NAACP, et al.,)
Plaintiffs,)
vs.) CASE NO.
STATE OF GEORGIA, et al.,) 1:21-CV-5338
Defendants.)

VIDEOTAPED DEPOSITION OF DANIEL J. O'CONNOR, III
(Taken by Plaintiffs)
March 17, 2023
9:35 a.m.

Reported by: Debra M. Druzisky, CCR-B-1848

1 population?

2 A. Well, I looked at the population. I
3 didn't look at the black voting age population.

4 Q. Okay. So you don't have an opinion about
5 how much B.V.A.P. in those districts would have
6 been needed for black voters to elect their
7 candidate of choice?

8 A. Correct. Uh-huh.

9 Q. Taking a step back a little bit, you would
10 agree that, in 2014 in Georgia, a district that was
11 over 30 percent black would tend to elect
12 Democrats; correct?

13 A. Correct. Uh-huh.

14 Q. Okay. And in your -- what's the basis of
15 your opinion for that?

16 A. I think it was just past elections in
17 Georgia, I mean, going back to the previous decade.

18 Q. Okay. And is there -- is there particular
19 data you would have looked at to support that
20 conclusion or to confirm that conclusion?

21 A. It could have been population data or
22 voter registration data.

23 Q. All right. Would it have been turn-out
24 data potentially?

25 A. I don't remember looking at turn-out data.

1 It could have been.

2 Q. All right. So, so you said population
3 data, you said --

4 A. And voter registration.

5 Q. -- voter registration data. Would it have
6 included demographic data?

7 A. Well, yes. Under population, yes.

8 Uh-huh.

9 Q. Any other racial data?

10 A. No. Huh-uh.

11 Q. And so you agree that, in 2014, a district
12 over 30 percent would have tended to elect
13 Democrats.

14 My question is, the data you looked at
15 that would have confirmed that opinion, do -- did
16 you still review that type of data in subsequent
17 years as part of your job?

18 A. No, I don't think so. Huh-uh.

19 Q. So I think you said you were looking at
20 race -- turn-out data, population data, voter
21 registration.

22 You looked at that type of data in 2015 as
23 part of your job; correct?

24 A. In 2015?

25 Q. Yes.

1 A. Yes. Uh-huh.

2 Q. And you would have looked at that type of
3 data as part of your job in 2016?

4 A. Well, I don't think we were doing -- I
5 don't remember doing redistricting in 2015 or '16.

6 Q. Okay. Would you have had access to that
7 type of data in 2016?

8 A. Oh, sure. Yes. Uh-huh.

9 Q. And would you have had access to that type
10 of data in 2017?

11 A. Yes, sir.

12 Q. 2018?

13 A. Yes. Uh-huh.

14 Q. 2019?

15 A. Yes. Uh-huh.

16 Q. 2020?

17 A. Yes.

18 Q. And 2021 as well?

19 A. Right. Uh-huh.

20 Q. And is it -- is it your testimony that you
21 only would have reviewed that type of data in
22 connection with redistricting, you wouldn't have
23 looked at it at any other time as part of your job
24 at the L.C.R.O.?

25 A. I mean, mainly at redistricting time, yes.

1 Q. Okay. So your opinion that 30 -- a
2 district in 2014 that was 30 percent black would
3 tend to elect Democrats, that's based on the data
4 you reviewed; correct?

5 A. Correct. Uh-huh.

6 Q. And your experience working with the
7 L.C.R.O.?

8 A. Right. Uh-huh.

9 Q. Do you have any reason to believe that
10 that 30 percent figure that would have tended to
11 elect Democrats in 2014 was meaningfully different
12 in subsequent years?

13 A. You mean in the years right after that?

14 Q. Yes.

15 A. I don't know.

16 Q. So, so you have no reason to believe it
17 was meaningfully different in 2015?

18 A. No. Probably not. Huh-uh.

19 Q. 2016?

20 A. No. Huh-uh.

21 Q. 2017?

22 A. No.

23 Q. 2018?

24 A. No.

25 Q. 2019?

1 A. No. Huh-uh.

2 Q. Members of the legislator -- legislature?

3 A. No. Not that I recall, no.

4 Q. Okay. Are you familiar with the concept
5 of racially polarized voting?

6 A. Yes, sir. Uh-huh.

7 Q. And what is your understanding of racially
8 polarized voting?

9 A. In a general sense, I think it's when
10 African-American voters vote dramatically different
11 from white voters. Or the same could be for maybe
12 Hispanic versus white or Asian versus white.

13 Q. Okay. That is my understanding as well.

14 Do you have any reason to believe that
15 black voter polarization or cohesion is lower today
16 than it was in 2014?

17 A. No. I don't think any reason to believe
18 that, no. Huh-uh.

19 Q. Do you have any reason to believe that
20 Hispanic voter cohesion is any lower today than it
21 was in 2014?

22 A. I don't know.

23 Q. All right. So you've testified that, in a
24 district with the percentage either over 30 percent
25 or with the range of 30 to 35 percent, the

1 V.A.P. -- black population would either tend to
2 elect Democrats or it would be a target, a district
3 would be a target for Democrats.

4 With that in mind, if a legislator wanted
5 to redraw a district that contained over 30 percent
6 black population that would tend to elect Democrats
7 in such a way that it was now competitive or was
8 likely to elect a Republican, that would require
9 lessening the amount of black voting age population
10 in that district; correct?

11 A. Correct. Uh-huh.

12 Q. All right. And in order to lessen the
13 amount of black voting age population in that
14 district, one of two things would have to happen;
15 right?

16 Either black voting age population would
17 have to be removed from that district and put in
18 another district; correct?

19 A. Correct. Uh-huh.

20 Q. Or white voting age population would have
21 to be moved into the district such that the overall
22 population increased, diluting the percentage of
23 black voting age population; correct?

24 A. Right. Uh-huh.

25 Q. Okay. All right. I know we're a little

1 Q. What about Speaker Ralston?

2 A. No. Never met with him.

3 Q. What about anyone from the leadership in
4 either the house or the senate?

5 A. No. Not that I remember, no.

6 Q. What about anyone from the governor's
7 office?

8 A. I don't remember offhand.

9 Q. The lieutenant governor's office?

10 A. I don't remember.

11 Q. The Secretary of State's office or staff?

12 A. I don't remember.

13 Q. Do you recall meeting with Bryan Tyson
14 during the redistricting process?

15 A. No. Huh-uh.

16 Q. What about anyone from Mr. Tyson's office
17 or staff?

18 A. No. Not that I remember, no. Huh-uh.

19 Q. What about any political interest groups,
20 such as the Heritage Foundation?

21 A. No, I didn't meet with them. Huh-uh.

22 Q. What about any G.O.P. groups?

23 A. I mean, not that I recall offhand.

24 Q. Any -- okay. So you've said that you
25 don't recall meeting with certain members or people

1 the 2020 census.

2 Q. And before the census, who were you
3 meeting with? Which members do you recall meeting
4 with?

5 A. Well, I think the ones I mainly remember
6 were Representative Joe Campbell and Representative
7 Richard Smith.

8 Q. Now, what about after the census data, who
9 do you recall meeting with?

10 A. I missed that last question. We had a
11 technical difficulty.

12 Q. Sorry. So what about after the census
13 data came out, which members do you recall meeting
14 with?

15 A. I think after the main meeting I remember
16 is we had a meeting of some legislators, I think
17 Ms. Wright was in there with me, of some
18 legislators from northeast Georgia --

19 Q. All right.

20 A. -- like your Athens and Savannah River
21 Valley.

22 Q. And in addition to actually having
23 meetings with the members, were you E-mailing the
24 members about the data that they were requesting?

25 A. I could have been. I don't recall

1 specific instances, but certainly could have been.

2 Q. Now -- okay. What happened at the
3 meetings?

4 Let's start with the pre-census meetings.
5 You indicated that you met with a couple members.
6 What happened during those meetings? What was
7 discussed?

8 MR. JAUGSTETTER: I'm going to assert
9 an objection.

10 Don't do anything. You're fine.

11 I'm going to assert an objection to
12 the discussions that Mr. O'Connor had with
13 any members of the General Assembly. They
14 do not waive their legislative privilege.

15 I'm going to assert an objection on
16 that basis and instruct the witness not to
17 answer.

18 BY MR. ROLLINS-BOYD:

19 Q. Okay. Understanding your counsel's
20 objection, I don't want to know the specifics of
21 what was discussed, but what -- generally what
22 topics were discussed?

23 MR. JAUGSTETTER: You can answer
24 that.

25 THE WITNESS: Just their general area

1 with redistricting.

2 BY MR. ROLLINS-BOYD:

3 Q. In the meetings -- in the meetings after
4 the census, what topics were discussed with the
5 members?

6 A. Well, that's where we were doing some, I
7 think we were doing some drawing of the northeast
8 Georgia area.

9 Q. And was that for the house or for the
10 senate?

11 A. House.

12 Q. And so you said "we were doing some
13 drawing." Does that mean that you were involved in
14 creating maps with these members?

15 A. Well, I think Gina Wright, our director,
16 was in here, and she was doing the, yeah, I guess
17 the mapping, but I was in the meeting.

18 Q. And who else was in the meeting?

19 A. I think it was Representative Alan Powell,
20 Trey Rhodes, I think Victor Anderson. And there
21 were a few others, but I don't remember offhand.

22 Q. Do you remember approximately how many
23 meetings you had with members after the census data
24 was released?

25 A. I mean, that was the main one I remember

1 in terms of, like, doing any sort of drawing or
2 meeting with them.

3 Q. Do you recall approximately how long that
4 meeting was?

5 A. The meeting with the northeast
6 legislators? It probably ran a couple of hours.

7 Q. Did you have any other responsibilities or
8 involvement with the 2020 redistricting cycle?

9 A. The main thing was just to meet with
10 members and if, you know, people had requests for,
11 like, population in their districts, anything like
12 that. That was the main things.

13 Q. Outside of the individuals we've already
14 discussed, do you recall anyone else requesting
15 data after the 2021 census information was
16 released?

17 A. I mean, there could have been. I don't
18 remember specifically.

19 Q. If they requested data, would that be --
20 would those requests have come in E-mails?

21 A. Most likely, yes. Uh-huh.

22 Q. And those E-mails would be saved or
23 archived at the L.C.R.O.?

24 A. Right. Uh-huh.

25 Q. And your responses to those requests

1 A. Well, in terms of a congressional
2 proposal, it could possibly be in a legislator's
3 folder, like, if they were proposing a
4 congressional district for their area.

5 Q. Okay. So sometimes state legislators
6 suggested changes to the congressional map?

7 A. They could sometimes do that. Or it could
8 be in the chairman of the house and senate
9 reapportionment committee's maybe could have some
10 in theirs, since they would be the chairman.

11 Q. Okay. And if they did, if any of them
12 did, those drafts would have been saved in their
13 individual --

14 A. (Inaudible due to cross-talk).

15 Q. -- folders?

16 A. Right. Uh-huh.

17 Q. Okay. And did any Congress members, U.S.
18 Congress members talk to your office about the
19 redistricting process?

20 A. I mean, I don't -- I don't remember
21 talking to them. I can't say if they talked to
22 others in the office.

23 Q. Okay. How about any staff members of any
24 congressional representatives, did they talk to
25 your office?

1 A. I don't remember talking to any staff, but
2 they could have possibly talked to others in the
3 office.

4 Q. Okay. And my last question is, were there
5 any conversations you had about the congressional
6 districts, period, during the redistricting
7 process?

8 A. Any converse -- I mean, there could have
9 been. I don't know.

10 Q. Okay. Because I've heard mostly today
11 that your involvement was only on the state level
12 maps.

13 A. It was mainly -- right. Uh-huh.

14 Q. Okay. But there may have been some
15 instances where you discussed the congressional
16 maps, you just can't remember?

17 A. Yeah. I mean, in terms of a meeting with
18 a legislator, no, there wasn't. Huh-uh.

19 Q. There wasn't any you -- discussions about
20 the congressional maps you had with a legislator --

21 A. Right.

22 Q. -- you said?

23 A. Right. Yes.

24 Q. Okay.

25 MR. MONTROYA-ARMANIOS: So that is all

1 I have for you. So I think we're good to
2 end it there, unless anyone else has other
3 questions they wanted to ask.

4 MR. ROLLINS-BOYD: All right. If
5 there are no questions from Patrick or
6 Mr. Tyson, then we are done for today.

7 MR. JAUGSTETTER: Nothing from us.
8 Thank y'all.

9 THE VIDEOGRAPHER: This concludes the
10 videotaped deposition. The time is 12:21.
11 We are off the record.

12 (Whereupon, a discussion ensued
13 off the record.)

14 (Whereupon, the reading and
15 signing of the deposition by the
16 witness was reserved.)

17 - - -

18 (Witness excused.)

19 - - -

20 (Whereupon, the deposition
21 concluded at 12:21 p.m.)

22 --oOo--

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VERITEXT LEGAL SOLUTIONS
FIRM CERTIFICATE AND DISCLOSURE

Veritext represents that the foregoing transcript as produced by our Production Coordinators, Georgia Certified Notaries, is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the certified court reporter in this case.

Veritext further represents that the attached exhibits, if any, are a true, correct and complete copy as submitted by the certified reporter, attorneys or witness in this case;

And that the exhibits were handled and produced exclusively through our Production Coordinators, Georgia Certified Notaries. Copies of notarized production certificates related to this proceeding are available upon request to litsup-ga@veritext.com.

Veritext is not taking this deposition under any relationship that is prohibited by OCGA 15-14-37(a) and (b). Case-specific discounts are automatically applied to all parties at such time as any party receives a discount. Ancillary services such as calendar and financial reports are available to all parties upon request.

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R E P O R T E R C E R T I F I C A T E
STATE OF GEORGIA)
COBB COUNTY)

I, Debra M. Druzisky, a Certified Court Reporter in and for the State of Georgia, do hereby certify:

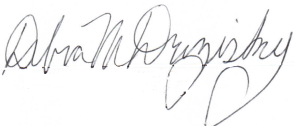
That prior to being examined, the witness named in the foregoing deposition was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth;

That said deposition was taken before me at the time and place set forth and was taken down by me in shorthand and thereafter reduced to computerized transcription under my direction and supervision. And I hereby certify the foregoing deposition is a full, true and correct transcript of my shorthand notes so taken.

Review of the transcript was requested. If requested, any changes made by the deponent and provided to the reporter during the period allowed are appended hereto.

I further certify that I am not of kin or counsel to the parties in the case, and I am not in the regular employ of counsel for any of the said parties, nor am I in any way financially interested in the result of said case.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 31st day of March, 2023.



Debra M. Druzisky
Georgia CCR-B-1848

Georgia State Conference of The NAACP, et al. v. S

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

GEORGIA STATE CONFERENCE OF)
THE NAACP, et al.)
Plaintiffs,)

vs.) Case No. 1:21-CV-5338
STATE OF GEORGIA, et al,) ELB-SCG-SDG
Defendants.)

_____)
STATE OF GEORGIA, et al.,)
Plaintiffs,) Case No. 1:22-CV-00090
vs.) ELB-SCJ-SDG
BRAD RAFFENSPERGER,)
Defendant.)

_____)
Deposition of Moon Duchin, PhD
(Signature is reserved.)
February 27, 2023
1:07 p.m.

Remote via Zoom technology

Reported by: Carla J. Hopson, RPR, CCR-1816

Georgia State Conference of The NAACP, et al. v. S

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I N D E X

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Georgia State Conference of The NAACP, et al. v. S

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E X A M I N A T I O N S

WITNESS: Moon Duchin, PhD

Page

Examination

(By Mr. Tyson)

8

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* * * * *

THE VIDEOGRAPHER: Good morning or good afternoon. We're going on the record at 1:07 p.m., 2 -- February 27th, 2023.

Please note that this deposition is being conducted virtually. Quality recording depends on the quality of the camera and internet connection of participants.

What is seen from this witness and heard on the screen is what will be recorded. Audio and video recording will continue to take place unless all parties agree to go off the record.

This is media unit one of the video recorded deposition of Moon Duchin, PhD, taken by counsel for the defendant in the matter of Georgia State Conference of NAACP, et al., versus the State of Georgia, and -- or I guess Case Number 1:21-CV-5338 ELB-SCJ-SDG, also Common Cause, et al. versus Brad Raffensperger, Case Number 1:22-CV-00090.

This deposition is being conducted remotely using virtual technology. My name is Scott Bridwell representing Veritext Legal Solutions. I am your videographer.

The court reporter today is Carla Hopson

1 from the firm Veritext Legal solutions. I'm
2 not authorized to administer an oath. I'm not
3 related to any party in this action nor am I
4 financially interested in the outcome.

5 If there are any objections to
6 proceeding, please state them at the time of
7 your appearance.

8 If counsel and all present, including
9 remotely, will now state their appearance and
10 affiliations for the record beginning with
11 noticing attorney.

12 MR. TYSON: Good afternoon to everyone.
13 Good morning, Dr. Duchin, where you are. I'm
14 Bryan Tyson on behalf of the defendants in
15 both the NAACP case and the Common Cause case.

16 MR. CANTER: This is Jacob Canter from
17 Crowell & Moring representing plaintiffs the
18 Georgia State Conference case. I'll be making
19 objections for the plaintiffs in the Georgia
20 State Conference Case.

21 However, any objections that I make
22 should be reflective as an objection made by
23 both plaintiffs in the Georgia State Conference
24 case and the Common Cause case and vice versa.

25 MR. ROSENBERG: Hello, good morning and

1 good afternoon. Ezra Rosenberg from Lawyers
2 Committee for Civil Rights Under Law also
3 representing the plaintiffs in the Georgia
4 NAACP case. Thank you.

5 MS. BERRY: Crinesh Berry with Crowell &
6 Moring also representing the plaintiffs in the
7 Georgia NAACP case.

8 MR. GENBERG: Jack Genberg representing
9 the Common Cause plaintiffs from the Southern
10 Poverty Law Center, also with Patrick Hanson,
11 who is a legal extern at the Southern Poverty
12 Law Center.

13 MR. JONES: Mike Jones with the Elias
14 Law Group representing the plaintiffs in the
15 Pendergrass and Greg cases.

16 MR. ZABEL: Joe Zabel. I'm at the law
17 firm of WilmerHale. I represent to Alpha Phi
18 Alpha plaintiffs in the related case.

19 THE VIDEOGRAPHER: I believe that's it.

20 MR. TYSON: Also -- sorry. There are
21 also attorneys from Dechert, LLP, who are
22 representing the Common Clause plaintiffs,
23 Neil Steiner, Nathan Jameson and Vincent
24 Montoya.

25 THE VIDEOGRAPHER: If that is it, Madam

1 Court Reporter, will you please swear in the
2 witness?

3 THEREUPON,

4 MOON DUCHIN, PhD,
5 having been first duly sworn, was examined and
6 testified upon her oath as follows:

7 EXAMINATION

8 Q (By Mr. Tyson) All right. Well, good
9 afternoon from the eastern time zone. Good morning
10 to you, Dr. Duchin. My name is Bryan Tyson. I know
11 we met before. It's good to see you again.

12 We'll be working through your deposition
13 today, and I wanted to -- basically the goal, which
14 I -- I always like to kind of go over our ground
15 rules just so we're all clear on that.

16 We are virtual as is indicated here. I
17 know you're -- you've taught a lot of classes via
18 Zoom. But just for the court reporter's sake it's
19 best that we don't talk over each other.

20 It's hard in the same room. It's really
21 hard over Zoom. So as much as we can, I'll finish
22 my question and then let you answer. At -- your
23 counsel, as we've kind of indicated during the
24 initial pieces, may object at different points
25 during this deposition.

1 Unless they struck you not to answer,
2 you should go ahead and answer the question to the
3 answer best of your ability if you understand it.
4 And if you provide an answer to a question, I'll
5 assume that you understood the way that I asked you.

6 Does that work for you?

7 A Yes.

8 Q Okay. So Jacob and Neil and Ezra have
9 been with me in plenty of depositions and know that
10 there are times when I get to the question mark and
11 no one has any idea what I'm asking. If that
12 happens, just me know that and I'll rephrase my
13 question, I'll take another run at it.

14 Also, again, our goal today is just to
15 really -- primarily work through your reports in the
16 case and understand where you're coming from, what
17 your expert opinions are here.

18 I expect this to be a little bit -- I'm
19 going to take some time. So if you need a break at
20 any point, just let me know. We can take as many
21 breaks as you need. My only request is that you
22 don't take a break until after you've answered a
23 question and there's not a question pending when
24 went take a break.

25 So will that work for you?

1 A It will. And I'd like to just ask in
2 advance, if it's possible, to plan ahead for a
3 15-minute break at 9 my time, which is 3 p.m. your
4 time because I need to say "hello" to the folks at a
5 training session for my lab.

6 Q Oh, certainly. Yes, we can work around
7 that. Not an issue at all.

8 A Okay. Thanks so much.

9 Q We'll probably take break or two before
10 then anyway. But we'll see.

11 All right. So what I'm going to do is
12 just kind of briefly go over background, then try to
13 jump into your involvement with the case, and then
14 get into the meat of your report.

15 So let me begin with just having
16 you state your full name for the record, please?

17 A Moon Duchin.

18 Q And Dr. Duchin, what is the city and
19 state where you primarily reside. I don't need an
20 address, just a city and state.

21 A I live in Cambridge, Massachusetts.

22 Q Okay. I have to ask everybody this
23 question. Are you on any medication or have any
24 medical condition that would keep you from fully and
25 truthfully participating today?

1 A I'm not on any medication and no
2 condition.

3 Q All right. So let's -- also since we're
4 virtual, is there anybody else in the room with you
5 or are you there by yourself?

6 A I'm alone in the room.

7 Q Okay. And you don't have any sort of
8 devices in front of you that can provide instant
9 messages or other information to you while you're
10 talking; right?

11 A Only this laptop.

12 Q Okay. That works.

13 So let's talk a little bit about getting
14 read for your deposition today. Have you talked --
15 well, before we do that, have you talked about your
16 deposition today with anybody besides counsel?

17 A Not substantively, only that I have one.

18 Q Yes. And so in terms of getting ready
19 for your deposition today, what did you do to get
20 ready?

21 A We did two preparation sessions.

22 Q And when you say "we," you're referring
23 to you and the attorneys in the case?

24 A That's exactly right.

25 MR. CANTER: And I'll just briefly say

1 please don't -- I'll try to object if it comes
2 up, but please don't answer any questions that
3 reveal any substance that might be privileged,
4 not that -- I'll leave it there.

5 Q (By Mr. Tyson) Definitely. And I'll be
6 fair. I'm not asking for anything the attorneys
7 said to you at all, just that you met with them.
8 Did you review any documents to get ready for your
9 deposition today?

10 A Yes.

11 Q And what were those documents?

12 A Those were my initial report and my
13 rebuttal report and two reports from John Morgan.

14 Q Any other documents besides those
15 reports from you and Mr. Morgan?

16 A No.

17 Q So, again, without getting into what an
18 attorney might have told you, how did you first hear
19 about these cases involving the Georgia
20 redistricting plans?

21 A How did I first hear about these cases?
22 I think I was aware of them on -- you know, as a
23 general matter. But I was contacted to -- to be
24 retained as an expert some months ago.

25 Q Okay. And who contacted you to retain

1 you as an expert?

2 A I believe that would be Ezra Rosenberg.

3 Q Okay. And do you recall approximately
4 when you were retained as an expert in these cases?

5 A I don't recall when I was retained, but
6 I would say that work started in roughly October.

7 Q October? That would be October of 2022?

8 A That's correct.

9 Q Now, you've served as an expert witness,
10 I know on your CV, in other cases. This isn't your
11 first time. What do you see as the role of an
12 expert witness in a case like this? I'm asking just
13 for your personal opinion, not for the legal
14 definition of what involves.

15 A I think the role is to take my scholarly
16 expertise and bring it to bear to help understand
17 some of the facts of the case. Yeah, generally I
18 would say that's -- that's the role.

19 Q Do you think an expert in a case like
20 this should be objective in their presentation to
21 the court?

22 A Absolutely.

23 Q Now, we're going to get into some of the
24 background just stuff in a little bit but. I just
25 wanted to check. Have you ever served as an expert

1 witness and opined that a map was drawn primarily
2 based on race?

3 A I'm not sure of the term "primarily" but
4 I have opined that there's evidence of the
5 predominance of race over other principles.

6 Q And those were in other states besides
7 Georgia, right?

8 A In other states besides Georgia,
9 correct.

10 Q And you've served as an expert witness
11 on Gingles Prong 1 in other Section 2 case; is that
12 correct?

13 A Yes.

14 Q And in terms of your work on this case,
15 you're being compensated at \$400 an hour; is that
16 right?

17 A That is right.

18 Q And is that the same rate for both
19 testifying and non-testifying work?

20 A Yes.

21 Q Do you recall approximately -- well, let
22 me ask you this. Have you been paid so far for your
23 work in this case?

24 A Yes, I have.

25 Q And do you recall approximately how much

1 you've billed in this case so far?

2 A I really couldn't say, but there's
3 been quite a lot of work. So it's been substantial.
4 I really couldn't say how much.

5 Q Okay. To what entity do you send your
6 bills?

7 A I have an LLC called The Redistricting
8 Lab, LLC, formed in Massachusetts as a d/b/a.

9 Q And do those invoices from the
10 Redistricting Lab go to Mr. Canter's law firm or Mr.
11 Rosenberg's law firm?

12 A I've been sending them to Mr. Canter's
13 law firm who I think coordinates with other -- but
14 you've had to ask him for detail.

15 Q Okay. Do you have a -- is \$400 an hour
16 your regular hourly rate for expert work?

17 A I have sometimes -- in cases that I
18 signed onto longer ago, there's some where I was
19 charging \$300 an hour. But recently I've been using
20 the \$400 rate.

21 Q Understood. But you're not giving the
22 plaintiffs a discount off the normal rate in this
23 case; right?

24 A No. No, I'm not.

25 Q So in terms of getting through your

1 report and working on your report, did the
2 plaintiff's counsel provide you with any facts or
3 data that you didn't list in your report that was
4 part of the consideration of forming your opinions
5 in your reports?

6 A No, I've tried to be comprehensive in
7 listing the materials I was provided with. It's
8 possible that in the course of discussing them we'll
9 come to something else that I didn't think to
10 include. But I've tried to be comprehensive.

11 Q Okay. And did the plaintiff's counsel
12 tell you to assume anything that you relied on when
13 you were forming your opinions in this case?

14 A No, I don't think so.

15 Q And I know you're currently in New
16 Zealand, right?

17 A I am, yes.

18 Q And you haven't spoken to anybody, I'm
19 assuming, about -- with any of the plaintiffs'
20 deposition and what the plaintiffs said in their
21 depositions; is that right?

22 A I don't know anything about what the
23 plaintiffs said in their depositions, although I'm
24 sort of generally aware that there were some.

25 Q And I wanted to ask you. One of the

1 pieces of data we received was a group of plans
2 called the Unity Plans. Do you remember those
3 plans?

4 A Yes.

5 Q And I didn't find them in your report
6 anywhere. Is there a reason why they were included
7 in the data but not in your report?

8 A Yes. Well, I tried to be extremely
9 comprehensive in turning over everything that was in
10 my relevant folders. I downloaded the Unity Plans
11 from the internet and thought I might discuss them.

12 And so for some of the analytics that I
13 ran they were included because the -- the computer
14 scripts points at everything that's been downloaded.
15 But I ended up deciding that they weren't useful for
16 me to discuss in the report.

17 Q And you said you decided they weren't
18 useful to discuss in the report. What do you mean
19 by that?

20 A Well, it's my understanding that they
21 don't have any legal status connected to the case.

22 Q Thank you.

23 So in terms of map drawing, are the maps
24 that are contained in your expert reports that we're
25 going to be talking about today the only maps that

1 you drew in Georgia after the 2020 census?

2 A No, I would you say that over the course
3 of working on this case I've drawn probably hundreds
4 of maps in Georgia.

5 Q Apart from your work in this case, have
6 you drawn any maps for any jurisdiction in Georgia
7 since the 2020 census?

8 A Not apart from this case.

9 Q And I did want to understand a little
10 bit about your map drawing process. Did you
11 personally draw all the maps that are included in
12 your reports in this case?

13 A Yes, but I can explain more about what
14 that looks like.

15 Q Okay. Well -- and maybe I -- I know
16 that the second report has some analysis pieces that
17 are -- we can kind of categorize differently. So
18 let's start with that in the first report.

19 For the alternate plans that you
20 provided for Congress, House and Senate, can you
21 describe generally the process by which those maps
22 were drawn?

23 A Yes. Absolutely. And this consonant
24 with my work in other cases. I -- I use a method I
25 call computational redistricting, which is the same

1 method that produced the ensembles in my rebuttal
2 report.

3 And what I like to do is use what I call
4 chain runs or algorithmic generation in an
5 exploratory fashion before I draw maps for
6 inclusion.

7 So I might explore with various kinds of
8 algorithmic alternatives and get a sense of what's
9 possible in different parts of the state before I
10 ultimately draw it by hand.

11 So that's the process. The process is
12 algorithmic exploration to get a sense of
13 responsibilities and then ultimately hand drawn
14 maps.

15 Q And what software program do you use to
16 hand draw the maps?

17 A So in -- in general I'm a very
18 python-based person, and so I typically handle maps
19 in -- using python and various python packages. So
20 there are spatial data packages that help
21 you manipulate maps as block assignments and
22 understand their properties.

23 So I -- for instance, GeoPandas and --
24 I could list a few other python packages. And then
25 sometimes software -- my lab has developed a package

1 called Districtor which can be used to see what a
2 map looks like and sometimes other end packages to
3 take a look at different aspects of a map such as
4 GIS packages.

5 Q I understand the distinction between
6 your python packages versus GIS packages. But in
7 terms of the GIS products you've used, do you ever
8 use Maptitude for redistricting?

9 A I think I -- I did go to a map -- I ran
10 a Maptitude training in 2017 and haven't used it
11 since.

12 Q And do you use any of the Esri
13 redistricting products that are available?

14 A No.

15 Q All right. So just -- let's do this.
16 I've marked as Exhibit 1 your report in Exhibit
17 Share, so I'm going to start working through some of
18 the pieces of that.

19 But I'll just first ask, is Exhibit 1
20 the report that you've submitted in this case?

21 A Yes.

22 Q And I know we have lot of maps to look
23 at today, but by my count we had alternative
24 Congressional map; is that right?

25 A That's right.

1 Q And then three alternative Senate maps
2 in kind of various configurations with the different
3 groupings; right?

4 A That's not exactly how I describe it. I
5 would say that because of what I call the modular
6 design, which I'm sure we'll talk about shortly,
7 there are many alternatives. What's called Alt
8 Effective 1 collects all the number one alternatives
9 and extends them statewide.

10 What's called Alt Effective 2 collects
11 all the number two alternatives and extends them
12 statewide. And then Alt 3 is drawn for the whole
13 state.

14 Q Okay. Thank you. And we're definitely
15 going to get there. So that's -- so those three
16 plans, then, Alt 1, Atl 2, Alt 3 with those
17 different integrations you discussed that could be
18 broken out, and then also three alternative House
19 maps, Alt Eff 1, 2 and 3; right?

20 A Yes, similarly constructed.

21 Q And prior to this case, had you ever
22 drawn a statewide legislative plan for Georgia?

23 A No.

24 Q And I know you referenced --well, we'll
25 look at that as we go through things. Let me -- let

1 me move to some terminology because I know there's a
2 lot -- a lot of terms in redistricting and I want to
3 make sure I get your definition down for all of
4 those.

5 So what would be your definition of a --
6 of a majority black district?

7 A Well, I would probably try to specify a
8 little but more, and so I might call it majority
9 black by voting age population or majority BVAP if
10 I'm trying to be precise, so BVAP or black voting
11 age population.

12 To say that a district is majority BVAP
13 means that of the voting age population more than
14 half if designated by people -- contains people who
15 designate themselves as black in their census
16 response.

17 Q And I know we use the term majority
18 minority. What is the definition of a majority
19 minority restricting?

20 A It depends on the minority group that's
21 been specified. But once you've specified a
22 minority group and a basis for population, a kind of
23 universe of population, then a majority minority
24 district is where more than half of the -- that kind
25 of population is made up of people from that group.

1 Q Okay. But in any case, I'm assuming a
2 majority minority district would not refer to a
3 district where the people who designate themselves
4 as non-Hispanic white are more than half the
5 population; is that right?

6 A Right, according to whichever population
7 basis you specify.

8 Q And do you ever used the term a minority
9 opportunity district?

10 A It's possible I used that term in the
11 report.

12 Q Okay. What would you mean if you're
13 using the term minority opportunity district?

14 A Well, opportunity to elect is a bit of a
15 terms of art in this area. But generally it refers
16 to a district where you've shown what the district
17 can be effective for that minority group to elect
18 candidates of their choice.

19 Q And you use the term coalition district
20 in your report in places, too. What is your
21 definition of a coalition district?

22 A Well, for the purposes of this case,
23 some of the claims of plaintiffs are based on a
24 coalition of black and Latino voters in Georgia.
25 And so when I say coalition in the context of this

1 report it refers to black and Latino resident.

2 Q And I know we defined -- we're going to
3 get into effective district along the way. And I
4 think you mentioned effectiveness earlier. But
5 generally speaking, if you're talking about an
6 effective district, what would that involve?

7 A Okay. So as you say, there's a precise
8 definition of effective operative in this report.
9 But generally, effective once again means that you
10 have some evidence that the district will tend often
11 to be conducive to the candidates of choice, so a
12 given group, being both nominated from the primary
13 and elected in the general election.

14 Q You said you work started in October.
15 Do you recall when you started drafting the January
16 13th report? Was it around the same time?

17 A Maybe October, maybe November. It's
18 certainly been quite a while.

19 Q And you said it was a -- substantial
20 amount of time. Do you have any estimate of how
21 many hours it took or how many people it took to put
22 the report together?

23 A Well, I wrote the report myself to be
24 clear. All the words in the report are written by
25 me. I do have research assistants working under my

1 supervision. I think it -- there's quite a bit of
2 computer time involved in some of that exploratory
3 district generation that I mentioned before.

4 So substantial amounts of time. But,
5 again, I don't have a numerical estimate for you.

6 Q And so the role that your research
7 assistants played was -- was it only in relation to
8 that kind of initial work involving the
9 computer-generated maps? Is that a fair way to say
10 that?

11 A Sure. I think research assistants
12 support all of computational work. In -- you know,
13 in my approach there's many roles for computation.
14 So I can give you some other examples. But research
15 assistant support all the computational work, but
16 all the conclusions, of course, are my own.

17 Q Which leads me to this -- the report we
18 have as Exhibit 1 is a complete statement of your
19 opinions on the topics covered by -- well, let me
20 ask this. You have submitted two reports in this
21 case, right?

22 A Yes.

23 Q And just for reference, I'll just go
24 ahead and mark your second report or your rebuttal
25 report before I ask these questions. That way it

1 will be easier to know what we're talking about.

2 I'm going to mark your rebuttal report
3 as Exhibit 2.

4 Okay. So that should be in your Exhibit
5 Share folder now.

6 A Yes, I see it.

7 Q Okay. So are the reports at Exhibit 1
8 and Exhibit 2 a complete statement of the opinions
9 that you're offering in this case?

10 A Exhibit 2 will probably take a minute to
11 load since Exhibit 1 did, but since I -- I am
12 willing to accept that it is my rebuttal report,
13 then I would say that the opinions that I intend to
14 discuss in this case are reflected in these two
15 reports.

16 Q And you're not responding
17 to Dr. Alford's report about polarization issues in
18 this case; right?

19 A That's right. I don't think that I've
20 read it.

21 Q That would make it hard to respond to, I
22 guess.

23 A It would. It would.

24 Q And in terms of the relationship between
25 race and partisanship, are you offering an opinion

1 about whether it's possible to separate race and
2 partisanship in Georgia?

3 A Well, I would say, you know, that can be
4 inferred from some of my discussion of race versus
5 party. But I don't think I ever opined directly on
6 that question.

7 Q So let's do this. Let's turn to
8 Paragraph 1.1, and we'll just kind of start working
9 our way through. My goal today is just going to be
10 kind of -- we'll go in order through the report.
11 (Audio distortion) -- and this lists the opinions
12 are giving in this case; right?

13 A Correct.

14 MR. CANTER: Brian, I'm sorry. I
15 couldn't quite hear what you just said.

16 MR. TYSON: I'm sorry.

17 (Court reporter interruption.)

18 MR. CANTER: Yeah, and I just want to
19 make sure that we can hear the questions,
20 Brian.

21 THE VIDEOGRAPHER: I apologize. I was
22 muted. We're going off the record at 1:34.

23 (Recess.)

24 THE VIDEOGRAPHER: We are on the record
25 at 1:39.

1 Q (By Mr. Tyson) All right. Dr. Duchin,
2 we're going to try our new audio thing here and see
3 if this works. Back to Section 1.16 your report.
4 And this lists the assignment that you were given
5 related to this case; is that right?

6 A Yes.

7 Q And you were assigned to examine the
8 enacted Congressional, state Senate and state House
9 districts from Georgia in 20 -- that were adopted in
10 2021; right?

11 A Yes.

12 Q So turning to the next page, you stated
13 you reviewed the maps' conformance with traditional
14 districting principles; is that right?

15 A Yes.

16 Q And that process -- I'm assuming the
17 reference to Section 6 of your report -- generally
18 involves the metrics that you reference in Section
19 6; is that right?

20 A Yes.

21 Q You also supply demonstration maps for
22 the Gingles 1 prong of a VRA challenge. Could you
23 just briefly explain what you mean by the Gingles 1
24 prong of the VRA challenge?

25 A Yes. In my understanding, a Voting

1 Rights Act lawsuit has to begin with establishing
2 three threshold conditions called the Gingles
3 factors. In Gingles 1, which is the one I'm
4 discussing here, involves the production of
5 demonstration maps with additional majority minority
6 districts.

7 Q And those additional majority minority
8 districts are not necessarily majority black VAP
9 majority -- or majority BVAP districts; is that
10 correct?

11 A That's right. In general -- since
12 you're asking about Gingles 1 in general, it depends
13 on the group on whose behalf the challenge is
14 launched.

15 Q And your maps in this case or in this
16 report -- in some cases you've drawn more majority
17 BVAP districts and in others you've drawn more
18 coalition districts. Is that fair to say?

19 A That's correct. The -- the claims were
20 sometimes looking for additional opportunity on
21 behalf of black voters and sometimes on behalf of
22 the coalition.

23 Q And you say the effective districts are
24 shown to be highly likely to provide an opportunity
25 for black and Latino voters to elect candidates of

1 their choice. Do I have that right?

2 A Yes.

3 Q And we're -- I know we're going to have
4 this discussion probably quite a bit today. But
5 isn't it also true that districts that provide an
6 opportunity for black and Latino voters to elect
7 their candidates of choice in Georgia in 2023 also
8 means districts that will elect Democratic members
9 in the general election?

10 A Well, I've worked quite hard to craft
11 the definition of effectiveness that does not simply
12 default to Democratic opportunity.

13 Q And is that because your definition of
14 effectiveness includes primary preferences as well?

15 A In part because it includes primary
16 preferences and in part because it only calls
17 for five out of eight contests to be won by the
18 candidate of choice in the general election who
19 admittedly in Georgia today will be seen to be a
20 Democrat in each instance.

21 Q Then you say next that you have assessed
22 the maps to investigate the possibility of
23 excessively race conscious line drawing. Do I have
24 that right?

25 A Yes.

1 Q And you use a couple of terms there in
2 quotes, packing and cracking. What do you do to
3 determine if a district is packed with blacks and
4 Latino voters, for example?

5 A So are you asking the definition that I
6 used or are you asking what I do to assess?

7 Q Well, that's a good point. Let's break
8 it into two sections. Let's start with the
9 definition and then kind of the assessment process.
10 So if you -- if you were to define the term packing,
11 how would you define that?

12 A Right. So I understand packing to mean
13 the overconcentration of a district with members of
14 a particular group beyond what is necessary for
15 their preferences to prevail.

16 Q And so in looking at the enacted plans
17 for Congressional, State Senate and State House in
18 Georgia, how did you go about then determining
19 whether particular districts were packed?

20 A I think that maybe the best indication
21 of that is to compare them to the alternative plans
22 that I furnished, which in my cases show that
23 opportunity can be present with far lower levels of
24 black and Latino demographic population.

25 Q So in your mind is there a numeric

1 threshold a particular minority group reaches to be
2 a packed district?

3 A No. And I'm on the record and quite a
4 few scholarly publications are going against the use
5 of bright-line numerical threshold.

6 Q And so then kind of the -- I guess the
7 converse is cracking. What is your definition of
8 cracking?

9 A So generally I understand cracking to be
10 a strategy of dispersal in which a group which could
11 have had influence or controlling impact on
12 electoral outcomes is instead spread out over
13 several districts in slightly suppressed numbers --
14 slightly or sometimes greatly suppressed numbers in
15 a way that diminishes or eliminates electoral
16 opportunity.

17 Q And I'm assuming like with packing
18 there's no numeric threshold involves in that. It's
19 an assessment you make of a district and the
20 surrounding population. Is that fair to say?

21 A Yes.

22 Q So moving to 1.2 you list the various
23 materials that you used in the preparation of your
24 report; correct?

25 A Correct.

1 Q And I wanted to ask specifically about
2 the fourth bullet, the last sentence. You say you
3 were provided with written transcriptions of oral
4 testimony and public hearings in Georgia about
5 redistricting --

6 A Yes.

7 Q -- and with corresponding written
8 communication. Is that corresponding written
9 communication the information in the online portal
10 that Georgia has provided for voters to provide
11 input?

12 A I think so. But in both cases I
13 included the transcriptions and the written
14 communication in the materials that I handed over so
15 you can see exactly what I was provided.

16 Q Let's move into the summary of your
17 findings here. So you list out the summary that you
18 have. And I wanted to ask specifically. Are you
19 offering the opinion in this report that the enacted
20 Congressional, State Senate and State House plans
21 were drawn primarily based on race?

22 A I wouldn't say that that's a contraction
23 I would use.

24 Q Is it fair to say that you're offering
25 data about the use of race but you're not offering

1 an opinion about the particular motivation behind a
2 plan? Is that correct?

3 A I think at a high level the narrative
4 that I am offering in terms of my conclusions is
5 that what I observe in the plans is consistent with
6 a pursuit of partisan ends but one in which race was
7 clearly used to achieve those ends.

8 Q And so your opinion is that the
9 legislature pursued partisan ends but then used race
10 in part to achieve those partisan ends?

11 A I try to be careful to be clear that I'm
12 not reading minds. And so if you will allow me,
13 I'll continue to use constructions like "I find
14 evidence consistent with the following behavior," so
15 that I'm not pretending to know more than I'm able
16 to discern from the data that's available to me.

17 Q And you anticipated my next question
18 which was, are you offering any opinions about the
19 reasoning of Georgia legislators in the creation of
20 the Congressional, State House and State Senate
21 plans?

22 A Right. I would -- I would say that
23 generally I think the kinds of findings that I
24 describe here are evidence that might be persuasive
25 in terms of discerning intent, but I certainly can

1 make no hard and fast conclusions about what was in
2 the hearts and minds of the legislators or the -- or
3 the staff.

4 Q And so then it would be fair to say that
5 you're not offering the opinion that the
6 Congressional House and Senate maps in Georgia were
7 drawn with racially discriminatory intent, right?

8 A I would say that I'm offering evidence
9 that the court can use to make a determination of
10 intent but that it would -- one should be careful
11 not to overstate how conclusively this kind of
12 evidence can operate.

13 Q And my question I think was -- I
14 understand that's where you're coming from. My
15 question was a little more specific, which is:
16 You're not offering the opinion that Georgia's House
17 Senate and Congressional plans were drawn with
18 racially discriminatory intent, right?

19 MR. CANTER: Objection. Asked and
20 answered.

21 A Right. I would say -- you know, trying
22 to be fully cooperative with the question, I think
23 that that's what I've already answered in saying I
24 think I find evidence that can help the court reach
25 conclusions about intent, and that's how -- how far

1 I understand my role to go.

2 Q But you're offering information that
3 could help the court reach its own conclusion about
4 intent. You're not offering what you think that
5 conclusion should be, is that right.

6 MR. CANTER: Objection. Asked and
7 answered.

8 A I think the conclusions reached by the
9 court that that's a legal conclusion that I will
10 refrain from making in my role as an expert and as a
11 mathematician in particular.

12 Q In your experience in redistricting is
13 it possible to determine -- let me ask it this way.
14 In your experience in redistricting have you seen
15 examples where maps were drawn with what you
16 concluded was racially discriminatory intent?

17 A Again, I would probably phrase that as
18 stronger evidence or weaker evidence. And certainly
19 I've seen a range of cases, some with stronger
20 evidence of intent and some with far weaker or no
21 evidence of intent.

22 Q Let me ask a few questions as we kind of
23 work through the bullets in your summary. You
24 first -- in the first bullet note that candidates
25 preferred by black and Latino voters can be elected

1 by a simply majority on the statewide basis in
2 Georgia. Is that right?

3 A Yes.

4 Q And Georgia as a whole is about 33
5 percent or a little bit more in its black population
6 as a percentage of the total population; is that
7 right?

8 A Well, I address that in Table 1. So in
9 total population 33 -- yes, just over 33 percent
10 black.

11 Q And when you reference candidates
12 preferred by Black and Latino voters being elected
13 by a simple majority on a statewide basis, you're
14 referencing the success of Democratic candidates in
15 recent elections statewide in Georgia, right?

16 A Not the blanket success of all
17 Democrats, but particularly Democrats widely thought
18 to be preferred by black and Latino voters.

19 Q And when you say candidates widely
20 thought to be preferred by black and Latino voters,
21 what do you mean by that?

22 A Well, to be clear, we discussed earlier
23 the first Gingles condition. There's also a 2nd and
24 3rd Gingles factor while relate to racially
25 polarized voting. And in this case plaintiffs have

1 a different expert who is doing their Gingles 2 and
2 3 work.

3 I did not include the measurement of
4 racial polarization in my work for this case. But
5 I've been made aware generally of the findings by
6 counsel. And I am under the impression that no one
7 contents in general the polarization in Georgia.

8 Q And it is also your understanding no one
9 contests in general which candidates are preferred
10 statewide by black and Latino voters?

11 A Well, there might be, especially in down
12 ballot races, some where it's less obvious. But I
13 think for the very high profile races it's -- it's
14 well known that, for instance, you know, Warnock was
15 a candidate of choice for black and Latino voters in
16 Georgia.

17 Q Then you talk about the enactable plans
18 as conspicuously uncompetitive. Do you see that?

19 A Yes.

20 Q What do you mean by conspicuously
21 uncompetitive?

22 A Well, I mean, that I've studied and
23 written about quite a few states, and I've actually
24 never seen one as competitively drawn as Georgia.
25 I've never seen another.

1 Q Understood. And you're aware that
2 statewide Republicans in Georgia in the 2022
3 election got a percentage of the vote as high as 53
4 percent statewide; right?

5 A I'm sorry. Can you repeat the question?

6 Q Yes. You're aware that in the 2022
7 election statewide Republicans got a share of the
8 vote upwards of 53 percent for some of them; right.

9 A I'd have to look at the figures to
10 really agree. But I accept that representation.
11 That sounds right.

12 Q And so when you took about maps being
13 conspicuously uncompetitive, you're not referring to
14 the percentage of seats versus the statewide vote
15 total, are you?

16 A No, no. What I mean by uncompetitive is
17 that in -- even if you have a race that was 53/47 or
18 closer on a statewide basis, it's remarkable how few
19 of the individual districts would have had an
20 outcome within a 10 point margin. That's what I
21 mean.

22 So you might have a statewide race with
23 a 4 or 6 point margin, which in every district has a
24 10-plus point margin. That's what mean by an
25 uncompetitive plan.

1 Q And you reference the changes in
2 Congressional District 6. You would agree that
3 Congressional District 6 in Georgia was drawn to
4 elect a Republican; right?

5 A I would agree that it was -- it looks
6 like to me is that it was drawn to disrupt the
7 existing political balance in the district. Lucy
8 McBath represented the district before. And so I
9 think it -- you might say that McBath's district was
10 targeted.

11 It's true that that is hard to
12 distinguish from generally making the district more
13 Republican, but I would say either of those is --
14 framings is consistent with the observation.

15 Q And you reference Congressional District
16 3 retaining its character as a firewall, and then
17 you reference two parts of the state.

18 Isn't that really just saying it's the
19 districts between metro Atlanta and the second
20 district in southwest Georgia?

21 A No, that's not what I mean by that.
22 Should I explain?

23 Q Yes, if you could, please. That's going
24 to be my next question.

25 A Just anticipating. What I mean is

1 rather than -- if you study, for instance, my
2 alternative Congressional plan, you'll see that it's
3 readily possible to construct a district in the
4 geographical area of District 3 that does contain
5 enough black and Latino population and enough
6 crossover vote support to be an opportunity
7 district.

8 And so when say it's a firewall, I mean
9 a firewall against electoral opportunity for these
10 minority voters. That does not have to do with
11 where it's located, as you can see by inspecting my
12 alternative plan.

13 Q And skipping a few bullets down, you
14 talk about "If we foreground effectiveness instead
15 of majority demographics, we find districts can
16 frequently be affected even well under the 50
17 percent plus 1 demographic threshold." Do you see
18 that?

19 A I am looking.

20 Q It's the fourth bullet up from the
21 bottom on Page 5.

22 A Okay. Thank you. Fourth bullet.

23 Yes, I see that.

24 Q And so when you talk about effectiveness
25 here -- and we'll talk about this a little more.

1 But essentially this means for the district that
2 will elect a preferred candidate of black and Latino
3 voters in the Democratic primary and will in most,
4 or five out of eight elections, elect that same
5 Democratic candidate that won the primary for black
6 and Latino voters in the general; right?

7 A Well, not necessarily that same
8 candidate because the dataset that I've used it's
9 not the case that the primaries match up with
10 generals.

11 So what I would say effectiveness is
12 about is that the preferred candidate can win in
13 three out of four primaries and in at least, as you
14 say, five out of eight general elections.

15 Q And in Georgia, I guess this -- this is
16 kind of self evident referencing Senator Warnock's
17 election. But there are places in Georgia where the
18 minority preferred candidate can win at thresholds
19 significantly below 50 percent minority population;
20 right?

21 A Right. I think that's exactly the point
22 I'm making in the bullet.

23 Q Going down to the last bullet on Page 5,
24 you reference and the public input and some examples
25 there. And you say, "It also explains why the

1 enacted plans are dissonant in terms of shared
2 community interest."

3 What does dissonant in terms of shared
4 community interest mean?

5 A Sure. Okay. So here I'm referencing
6 the traditional districting principle of respect for
7 communities of interest. That's -- that's what this
8 verbiage is trying to reference.

9 And my best indicator of what Georgians
10 consider to be their communities of interest comes
11 from the records that I mentioned earlier, the
12 public testimony and the written submissions to the
13 state.

14 So communities of interest have to do
15 with shared needs in terms of representation. They
16 have to do, as you know, with a variety of factors
17 including employment, economics, culture and so on.

18 And typically it's considered best
19 practices in redistricting when you hear communities
20 describing their shared needs to keep those
21 communities together in such a way that they'll have
22 a voice with their representative.

23 And as I detail further below in the
24 report, that definitely does not seem to have been
25 on the CD 6 and CD 14 examples in particular.

1 Q And so you're not offering the opinion
2 in this report that there are no shared community
3 interests Congressional, House and Senate maps.
4 You're just singling out a few examples where those
5 are not reflected on those maps?

6 A Right. And I believe the way that I
7 phrase it later, the -- in the last section of the
8 report which we'll presumably get to over time, is
9 that I don't think that the changes to CD 6 and CD 4
10 [sic] have a justification in terms of communities
11 of interested.

12 Q Let's move to your -- Section 3 talking
13 about demographics. And so you have a map here on
14 Figure 1. There's a map of the APBVAP Shared. Can
15 you just describe briefly what is reflected on
16 Figure 1?

17 A Sure. This is what's called a
18 Choropleth in geography. And a Choropleth is as map
19 in which the units are shaded according to something
20 quantitative. And in this case, this is the BVAP.
21 And APB means any part black. It just means
22 everyone who identified as black on the census.

23 And so the coloring shows us for each of
24 the state precincts in Georgia. The intensity of
25 green in this figure shows us the percentage of

1 black adults.

2 Q And I notice that you didn't include
3 Albany and Valdosta on here as far as cities that
4 were looked at. Is there a particular threshold you
5 used for which cities you identified?

6 A I think I just took the largest ones, as
7 I recall, in order.

8 Q And you also reference at the -- the
9 description, "the swath of the state from Columbus
10 to Augusta broadly called Georgia Black Belt
11 region." Do you see that?

12 A I do.

13 Q And can you just describe what you mean
14 by the Black Belt region?

15 A Sure. In several southern states
16 there's a swatch of territory in the state which --
17 going back in some cases to pre-Civil War times has
18 a history of residential concentration.

19 Often these are agricultural areas
20 historically. And that's the case here in Georgia.

21 Q Are you able to identify any particular
22 counties that are included in the Black Belt in
23 Georgia or is it more just kind of a general
24 regional definition?

25 A I think it's a regional definition.

1 Q You discuss next the differences in
2 census data, the population -- redistricting data
3 release versus the ACS or American Community Survey
4 data. And I just wanted to make sure I understood a
5 couple of pieces that the B -- the CVAP, so citizen
6 voting age population, number is only available from
7 ACS data and not from the redistricting data
8 release, right?

9 A Correct. Furthermore, it requires
10 inference to take the C -- the citizen data from the
11 ACS and put it onto the units needed to do this kind
12 of analysis.

13 Q And that was my next question. In terms
14 of your estimated CVAP you built from block-level
15 adjusted VAP. Can you just talk briefly about what
16 block-level adjusted VAP is.

17 A Yes, and also there's really quite an
18 extensive discussion of precisely how this is done
19 in the appendix.

20 So how -- would you like just an
21 explanation -- should I read from this?

22 Q Just -- if you could just give a general
23 overview. I understand that there's a lot of
24 writing about it. If you could just kind of
25 generally describe the process of what that means.

1 A Absolutely. Absolutely. So the process
2 is to use regionally specific ACS estimates to poll
3 the citizenship ratio for four different groups:
4 Black, Hispanic, white and other. And so I used
5 tract level data. Tracts are census units typically
6 with about 8,000 people.

7 So I used tract-level data to get those
8 local ratios of citizenship, and then I apply that
9 to the voting age population of the block level.

10 Q At the very bottom of Page 7 you talk
11 about how in Section 8, "I will confirm that my
12 alternative plans satisfy the Gingles 1 standard for
13 coalition districts using black and Hispanic CVAP as
14 well as using VAP."

15 What is the Gingles 1 standard for
16 coalition districts as you understand it.

17 A Well, here I'm referring to the
18 threshold that was in my understanding confirmed in
19 Bartlett vs. Strickland. That's the 50 percent plus
20 one threshold. That's what I mean.

21 Q And it's your understanding that that 50
22 percent plus one standard for coalition district
23 came from Bartlett?

24 A Was clarified in Bartlett.

25 Q And did you use that understanding as

1 you drew your alternative plans in constructing
2 those districts?

3 A Oh, definitely. They're -- they're
4 designed to meet a 50 percent plus one threshold.

5 Q And next -- I know we already referenced
6 these tables, but on Page 8 you go into the
7 demographic trends, the different places, and we
8 talked about various numbers. But just in looking
9 at the change in the black CVAP population in Table
10 2 from 2010 to 2019, that's a movement of almost
11 exactly two points from 2010 to 2019; right?

12 A 2 percentage points, right.

13 Q And then Figure 2 has your racial dot
14 density plot.

15 A Yes.

16 Q Please describe the difference in a
17 Choropleth versus a racial dot density plot?

18 A Absolutely. And I think they can both
19 be informative. If you use just one, sometimes
20 you're not getting the whole picture. So as I said
21 before, a Choropleth colors the units. But that's
22 subject to what geographers called MAUP, M-A-U-P,
23 which stands for the modifiable aerial unit problem,
24 which suggests that you can radically change the
25 impressions of the picture just by shifting the

1 units.

2 So sometimes instead, especially when
3 the units are large as state precincts in Georgia
4 can be, it's helpful to go below the unit level and
5 look at individuals.

6 So a dot density plot will use a colored
7 dot to represent some number of people, and in this
8 case I've chosen a one-to-one representation. So
9 there's a small color dot for every single person in
10 the census data. And they're colored here by
11 whether the person has identified as Asian, white,
12 black or Latino.

13 Q And is there a reason why you showed
14 only metro Atlanta racial dot density map and not a
15 statewide map like you did with the Choropleth?

16 A Oh, I show many more dot density plots
17 through the rest of the report. So this is just a
18 zoom-in to an area that's particularly noted in the
19 report as consequential for the redistricting.

20 Q And you'd agree that Figure 2 shows that
21 black individuals in Georgia are heavily
22 concentrated in south DeKalb, south Fulton and
23 Clayton County in the metro Atlanta area, right?

24 A Right. As I state here, besides those
25 also parts of Gwinnett, Douglas and so on.

1 Q All right. So let's move into Section,
2 Overview of the Enacted Plans.

3 A Yes.

4 Q And so this is where -- you're beginning
5 with a review of the Congressional district plan
6 adopted by the General Assembly, right?

7 A Yes.

8 Q And so you start by saying that racial
9 polarization in Georgia is essentially undisputed.
10 And I know we talked about that a little bit
11 already. Can you just describe what you mean by
12 racial polarization being essentially undisputed?

13 A All I mean is that I'm not aware of
14 anyone who has claimed that the general preferences
15 of black and Latino voters are the same as the
16 general preferences of white voters in Georgia.

17 Q And you would agree that in general
18 elections, white voters and voters of color in
19 Georgia tend to vote for two different political
20 parties; right?

21 A That's certainly been the case recently.
22 Well, to be fair, that's -- to say that about white
23 voters, that's a statement about the overall trend
24 for white voters in the state. There are parts of
25 the state as we'll see when we go through the report

1 where there's substantial numbers of white voters
2 supporting Democrats, of course.

3 But as a general matter statewide, in
4 terms of block voting analysis, I'm not aware of
5 anyone who disputes that generally white Georgian
6 support Republican recently and people of color
7 support Democrats.

8 Q And so when you reference the newly
9 enacted Congressional plan at the end of Paragraph 1
10 makes major changes to the benchmark and does so in
11 a way that reduces the number of performing
12 districts for black and Latino-preferred candidates
13 to 6 out of 14 to just 5 out of 14, that is also
14 essentially saying there's a reduction in Democratic
15 districts in the plan from 6 to 5, right?

16 A Well, here I'm talking about performing,
17 and we haven't discussed that word yet. But
18 typically that refers to actual observed electoral
19 outcomes rather than projected electoral outcomes.
20 And so I think -- so given that, can you repeat the
21 precise question you'd like me to answer?

22 Q Certainly. And my question was just:
23 When you say that the change in the Congressional
24 plan for the benchmark does so in a way reduces the
25 number of performing districts for black and Latino

1 preferred candidates from 6 out of 14 to 5 out of
2 14, that's the same as saying the 2021 Congressional
3 plan reduces the number of districts that elect
4 Democrat members of Congress to from 6 to 5, right?

5 A Yeah. Well, it would have the same
6 effect, that is correct. but I think those concepts
7 are conceptually distinct.

8 Q Do you know if District 6 was a majority
9 non white district before the 2021 redraw of it?

10 A No, I think it was majority white in the
11 benchmark configuration.

12 Q And so the changes in District 6 changed
13 the racial makeup under a 50 percent threshold and
14 altered the political performance, right?

15 A Correct.

16 Q Next you reference the targeting of
17 districts for black and Hispanic voters were removed
18 and replaced with white voters. Do you see that?

19 A Well, I think what I actually say here,
20 if I'm looking at the right part, is removing black
21 and Hispanic voters and replacing them with -- not
22 just any white voters, but white suburban, exurban
23 and rural voters.

24 It's important to note that, you know,
25 the areas that were removed also contained white

1 voters who more likely to share preferences with
2 black and Hispanic voters. So it's not a simple
3 swap of people color for white people that's at
4 issue. It's also a question of which white people.

5 Q And wouldn't that indicate, as we talked
6 about, kind of a political goal if you're removing
7 white voters who sympathize with Democratic
8 candidates statewide versus white voters who
9 sympathize with Republican candidates?

10 A I don't think anything I say ever denies
11 that there are partisan goals potentially in play.
12 I never mean to deny that there are partisan goals
13 in play, only to suggest that they might have been
14 achieved in impermissible race conscious ways.

15 Q The reference to targeting the district
16 isn't a reference to the intent of the legislature.
17 It's reference to just kind of this is what occurred
18 in this particular district?

19 A Well, no, I believe this is indicative
20 of intent to make the district less likely to
21 reelect McBath.

22 Q So you can't rule out politics as the
23 sole reason for the reconfiguration of District 6,
24 right?

25 A Well, rule out is a very strong kind of

1 conclusion, and I certainly don't think that the
2 kind of analysis that I do is likely to ever rule
3 things out conclusively. But I believe it not to be
4 plausible that the -- that the goals have no racial
5 component.

6 Q And I just want to make sure I'm teasing
7 this out right. When you say they had no racial
8 component, would it be correct to say the
9 legislature could have been acting with a partisan
10 intent that had a racial impact as opposed to saying
11 they were acting with a racial intent that had a
12 partisan impact?

13 A I think -- so probably I'll end up
14 repeating that narrative many times, so forgive me
15 for repetitiveness. But I think the most likely
16 conclusion is one in which race was used to achieve
17 a partisan goal. That's the mantra that I have been
18 led to by the investigation.

19 Q And so it's not merely that there was a
20 racial effect of the partisan goal. It was -- it is
21 your opinion that race was used to achieve a
22 partisan goal; is that right?

23 A Well, what I find is consistent with
24 that. It's also, of course, possible that -- it's
25 possible that the legislators and the map drawers

1 acted with racial animus. I don't claim to be able
2 to discern that.

3 But what I find is consistent with the
4 use of race to achieve partisan goals and of course
5 a disregard for the reduced opportunity of people of
6 color.

7 Q So when you reference -- I guess maybe
8 we're talking about the last sentence of the -- one,
9 two, three, fourth paragraph where you say the
10 overall effect of the Congressional redistricting in
11 Georgia is the institutionalization of black and
12 Latino voters to achieve a profoundly uncompetitive
13 plan in which the line-drawers have gone a long way
14 to locking in the outcome.

15 Is what we've been talking about the
16 instrumentalization of black and Latino voters to
17 achieve a partisan goal?

18 A I think that is another phrasing of the
19 same narrative. So instrumentalization means using
20 people as kind of playing pieces to achieve a goal
21 rather than prioritizing their electoral
22 opportunity.

23 Q And so you'd agree that that goal -- I'm
24 probably going to repeat myself today a lot today,
25 too. But you'd agree that that goal is -- could be

1 a partisan goal but your view is that it used black
2 and Latino voters as instrument to achieve that
3 partisan goal?

4 A Yes, that's -- again, my findings are
5 highly consistent with that conclusion.

6 Q And so your findings are highly
7 consistent with that conclusion, but you're not
8 offering the opinion that the only explanation is
9 that the legislature used black and Latino voters to
10 achieve a partisan goal, right?

11 A Well, when it comes to redistricting
12 there are so many different choices facing people
13 that it's possible that you can arrive at one by
14 mere chance and that can't be ruled out. So I -- I
15 try not to be overly conclusive in my phrasing.

16 Q Let's look at some more maps then. On
17 Page 11 here we have a comparison of four different
18 Congressional maps.

19 A Yes.

20 Q And the Congressional Alt map in the
21 lower left is the map that you're proposing that has
22 six of these majority coalition districts. Is that
23 a fair way to phrase that?

24 A Yes.

25 Q Have you looked at the political data to

1 determine if this map in District 3 would elect a
2 Democratic candidate in a general election?

3 A I believe we can flip to a later part of
4 the report -- let me do that -- to check out how it
5 performs in the dataset that I've been using as my
6 probative --

7 Well, actually I will do that quickly.

8 Q You're looking for Page 92, I think, on
9 the CD Alt plan?

10 A I think it is actually in the earlier
11 section.

12 Thanks. You're probably right. Let me
13 find it.

14 Yes, that's correct. Right. And so,
15 yes, I show that the CD 3 in my alternative
16 plan agrees with the preferences of the minority
17 voters in -- of coalition voters in all four
18 primaries and all eight generals.

19 Q And also looking at Table 50 on Page 92,
20 District 6 as it's drawn provides black voters
21 their -- or black and Latino candidates of choice
22 success in zero out of 4 primaries and only 3 out of
23 8 general election, right?

24 A That's right. Yes.

25 Q In looking at the Congress -- Congress

1 Alt plan back on Page 11 compared to the enacted
2 plan. It's correct that every district changes at
3 least somewhat between the enacted plan and the Alt
4 plan, right?

5 A I'm sorry. Would it okay if I opened my
6 own local copy of this report because it's a little
7 slow in the exhibit software.

8 Q That's totally fine with me if it's the
9 same report in pdf --

10 A It's the same report.

11 Q -- and if it will make it go faster --

12 A Yeah, it will go faster. Thank you.

13 All right. So you said back to Page 11?

14 Q Back to Page 11.

15 A Yes. Oh, is it fair to say, I think you
16 asked, that all the districts changed? I believe
17 that's -- that seems to be true.

18 Q Okay. And looking at Congress Alt,
19 you'd agree that it connects parts of south Fulton
20 and Clayton Counties with Troup and Meriwether
21 Counties and Harris County in rural Georgia; right?

22 A Which district are you asking about?

23 Q District 3.

24 A District 3. Yes, it does touch Fulton
25 and it does reach down to rural Georgia. It's -- I

1 would say it's in -- close to the same part of the
2 state it's geographically aligned with where
3 District 3 is in the other maps.

4 Q Would you agree that there's more of
5 urban population in the Congress Alt District 3 than
6 in the enacted District 3?

7 A Yes, that seems quite likely.

8 Q And District 12 on the Alt plan connects
9 Augusta over to Houston County and separates
10 Macon-Bibb County from Houston County; is that
11 right?

12 A I don't have the county names in front
13 of me in this report, but I accept that.

14 Q Let's move next to the Senate plan. And
15 you -- again, we talked a little bit about the lack
16 of competitiveness on the plan, and that refers to
17 kind of district performance, not overall number of
18 seats for a political party; right?

19 A Correct. That's right.

20 Q And isn't a lack of competitiveness on a
21 plan generally a sign of a partisan goal of the map
22 drawer?

23 A Well, usually I think you'd say that
24 it's a sign of wanting to create safe seats on both
25 sides. So is that partisan? I think typically when

1 we call something a partisan goal, we mean to favor
2 one political party. But a safe seat's goal can
3 sometimes favor incumbents from both political
4 parties.

5 Q And so you outlined your cluster
6 approach here in various pieces. And as I
7 understand our conversation earlier, SD Alt Eff 1
8 has different configurations in each of the
9 clusters on Page 13; is that correct?

10 A Yes, that's right. The entire approach
11 in all of my alternative maps is modular in that
12 way.

13 Q And the idea there is that you could
14 decide to take the Senate district configuration for
15 -- like, for example, SD East Black Belt module and
16 plug it into the enacted plan and just modify only
17 those districts; is that right?

18 A Exactly. It's designed to limit the
19 ripple effects of a choice made in one part of the
20 state so that you could mix and match options from
21 different regions or selected some and leave the
22 rest of the map unchanged.

23 Q And are there parts of the map on the
24 Senate map that are unchanged changed from the
25 enacted plan in both Alt 1 and Alt 2?

1 A So generally what I've done is I've
2 taken some of the proposed Gingles alternative
3 demonstration maps and I've extended those around
4 the rest of the state.

5 So I believe it to be the case that some
6 of the districts are unchanged but that many parts
7 of the state will have been changed in the statewide
8 configurations.

9 Q And the Alt 3 map, as you said, changes
10 all the districts to focus on the effectiveness
11 goals that are outlined; right?

12 A That's right, but still in a modular
13 fashion.

14 Q I think we're on Page 13 --

15 A Sorry. Let me just say one more thing
16 before we move on. I think we can see just for
17 example -- so I mention that some districts might be
18 unchanged. And it looks like the whole south --
19 southwest part of the state from the enacted plan
20 looks fairly identical in Atl effective 1 and Alt
21 effective 2, just as an example that changes weren't
22 made everywhere.

23 Q Thank you.

24 And Page 13 you talk about your Alt 3
25 map, and then in the last sentence you say, "This is

1 accomplished while maintaining the scores for
2 traditional districting principles that are
3 comparable or superior to those in the enacted
4 plan."

5 And I just want to pause. That isn't
6 the complete sentence, but I want to pause there.
7 In terms of that, is -- is that assessment about
8 maintaining the various scores what you're
9 discussing in Section 6 of the report on the
10 different metrics for measuring traditional
11 principles?

12 A That's right. Scores here means the
13 same thing as the metrics.

14 Q And if it's not something that would be
15 put into a metric, it's not something that you're
16 necessarily taking into account for purposes of
17 maintaining the scores for traditional districting
18 principles, right?

19 A Exactly. I mean scores to be
20 essentially synonymous with metrics.

21 Q In looking at some of these districts in
22 figure -- back on the map for state Senate, on Alt
23 Eff 1, there's a district that's just above the red
24 district on the eastern side of the state that
25 begins in that kind of northwest Georgia area, then

1 kind of wanders its way, it looks like, all the way
2 down over through Dublin and back into Emmanuel
3 County.

4 Is that -- can you tell, is that a
5 single district there?

6 A Sir, you said northwest. Did you mean
7 northeast?

8 Q I'm sorry. Northeast, yes.

9 A Yeah. No, those are -- if you're
10 looking at Alt effective 1, then those -- it looks
11 to me like those are two different districts with
12 unfortunately similar colors.

13 Q But then there is a district that
14 touches the red district on Alt Eff 1 that runs and
15 wraps around a purple district; right?

16 A Yes, that's how it looks.

17 Q So in the process -- I know we talked
18 generally about the creation of the Alt maps and how
19 you looked at those, you know, different algorithmic
20 options first, kind of get an idea of different
21 places.

22 When you drew Alt effective 1, what was
23 the process you followed specifically for the
24 creation of this redistricting plan?

25 A It was exactly what was described

1 earlier.

2 Q So did you start with a blank map or did
3 you start with the enacted plan and modify the
4 enacted plan?

5 A For all of these, I don't start with a
6 blank map except that -- well, to be clear, I'm doing
7 everything on the level of clusters. I know we've
8 said that but just repeating that. And so I don't
9 start with a statewide blank slate.

10 I start with a region that's been carved
11 out by a district in the enacted plan. So in that
12 sense the enacted plan gets strong deference in all
13 of my alternatives because each of those regions is
14 picked out by a collection of districts enacted by
15 the state.

16 Q And so you start with an area enacted by
17 the state. Do you begin then with the majority
18 minority districts that you're looking to draw and
19 then draw the remaining districts around it?

20 A No, it's -- that's not -- I wouldn't --
21 I wouldn't agree to that.

22 Q Okay. So can you just give me an
23 example if we -- let's say the SD East Black Belt.
24 We have that as a region on Page 13. Is there a
25 particular process or methodology you would follow

1 for how you would draw the districts in that
2 particular region when you were looking at them?

3 A Sure. Should we discuss specifically
4 the algorithmic exploration stage or the hand
5 drawing following that?

6 Q I'm interested primarily in the hand
7 drawing stage.

8 A Sure.

9 Q So how that process works.

10 A Sure. So I will -- at that point I will
11 have seen a collection of maybe dozens of
12 alternatives, and I'll examine those to try to find
13 some that have properties that seems to handle the
14 tradeoffs of redistricting in a way that seems
15 favorable.

16 So just to be clear by what I mean by
17 that, everyone who draws maps knows that you have to
18 handle tradeoffs. You have -- to make your map
19 better in one way you're necessarily sacrificing
20 something else and we're trying to take account of
21 many things, of county splits, of maybe opportunity
22 to elect, if that's a priority for the map drawer,
23 compactness, which can be scored in many ways and so
24 on.

25 So when you see a district like that one

1 that wraps there that you identified in Alternative
2 Effective 1 that's not going to have a great score
3 in certain compactness methods, like Polsby-Pepper,
4 but it can still have a very good score in other
5 compactness methods like Reock.

6 And as a line drawer, you just face
7 these trade-offs everywhere. And so you're trying
8 to balance them and come up with something favorable
9 across the board.

10 Q In terms of the process of doing that
11 balancing, what types of data did you have displayed
12 while you were working on drawing the different
13 components in the hand-drawing phrase to be clear?

14 A Only the data that you see in the
15 report. Those are the only things I considered. I
16 didn't look at anything else besides the metrics
17 that are discussed here, the -- my so-called
18 effectiveness score, and demographics because the
19 Gingles 1 assignment involves hitting a 50 percent
20 plus one line.

21 Q Were all those data points displayed as
22 you were drawing all of the effectiveness score, the
23 racial data? Were all those displayed while you
24 were drawing the maps?

25 A So unfortunately, because my drawing

1 process is -- I know it's quite conventional in this
2 area to use common software like Maptitude --

3 I see someone's asked for a break. I'm
4 just noting know that. I'll just finish my answer
5 to this question.

6 So I think some of our ways that we talk
7 about it are keyed to software like Maptitude. It
8 doesn't work quite the same way in the -- in the
9 different kinds of packages that I use.

10 But I would say, I think to get to the
11 substance of your question, that in my drawing
12 process I'm aware of -- I have the ability to check
13 in on any of the metrics discussed here at any
14 point. They're not going to be all visible all the
15 time.

16 In fact, some of the manipulation is
17 done without a visual, right, because I -- I'm able
18 to change block assignments without constantly
19 looking at -- at a picture.

20 So while it's hard to answer the
21 question in precisely the way that it's framed, I
22 think the substantive answer is that I'm able to
23 call up any of those metrics at any point.

24 MR. TYSON: Let's go off the record for
25 a minute.

1 THE WITNESS: Sure.

2 THE VIDEOGRAPHER: Off the record at
3 2:34.

4 (Recess.)

5 THE VIDEOGRAPHER: We're on the record a
6 2:41 p.m.

7 Q (By Mr. Tyson) Dr. Duchin, before our
8 break we were talking about different -- kind of the
9 methodology or methods you drew maps using. And you
10 indicated you could check for the various metrics at
11 any point.

12 Was that like pushing a button, running
13 a report? What was the methodology or method -- I'm
14 sorry, not methodology -- what was the method you
15 used to check various metrics that you were drawing?

16 A It could be just running a command at
17 command line.

18 Q And when you were drawing the -- the
19 Senate Alt 1, 2 and 3 plans, had you already
20 conducted your analysis of the public comments in
21 the public hearings?

22 A Well, there was quite a voluminous
23 record of testimony, and so I would say I certainly
24 didn't go through that in one sitting. And so
25 I tried to understand that public record over the

1 span of some time.

2 And so I'm not sure how it intersperses
3 with the map drawing, which also extended over quite
4 a long time.

5 Q So it would be fair to say that those
6 processes were running simultaneously, reviewing
7 the -- well, not simultaneously, in parallel,
8 reviewing the public comment and working on drawing
9 the maps, right?

10 A I think that would be fair, yes.

11 Q And when you were looking at various
12 metrics -- let's just use compactness as an example,
13 did you ever reach a point where you drew a map, ran
14 compactness reports or looked at scores and then go
15 modify the plan to improve the compactness scores?

16 A Yes.

17 Q And the same for county splits. Did you
18 reach a point where you had drawn a plan and then
19 ran a county I split analysis of some sort and went
20 back to unsplit some counties?

21 A Yes. And I'll mention that the modular
22 method makes it particularly tricky to handle county
23 splits well because it concedes to the design of the
24 enacted plan certain choices of splits to make.

25 That's because the modules are made, again, out of

1 collections in districts from the enacted plan. And
2 what that means is that some county splits are baked
3 into the way the modules are designed.

4 So working within that constraint and
5 still trying to have a good respect for county lines
6 could be quite challenging. That was one of the
7 hardest parts of the module design.

8 Q And then in your drawing how do you take
9 into account communities of interest in Georgia in
10 the various modules?

11 A Well, I think communities of interest is
12 a kind of a holistic considering. I'll tell you one
13 example of a way that the community testimony
14 informed my map drawing. But generally I would say
15 it's a little more abstract.

16 It's not -- it's not a metric in this
17 case. There are other states where I have used
18 metrics for communities of interest but not in this
19 case.

20 So one example is I found that in my
21 study of the enacted plan I noticed that
22 particularly the populous urban counties which had
23 to be split were likely to be split into many pieces
24 by the state. And I certainly read about that kind
25 of thing in the public testimony. And so I tried to

1 be cognizant of that and pay attention not only to
2 the number of split counties but also to the number
3 of pieces into which they were split.

4 So that's an example of a way that I
5 draw while keeping in mind some of the testimony
6 that I read.

7 Q And just to avoid having to repeat those
8 for each of the plan did you follow a similar
9 process as we've described in terms of the metrics
10 and the drawing and the modules for drawing the
11 House plan well?

12 A Yes. The process was quite parallel for
13 the House and the Senate.

14 Q And did it differ at all for the drawing
15 of the Congressional plan from the process we've
16 talked about?

17 A Well, only in that the Congressional
18 plan wasn't modularized, wasn't -- wasn't
19 regionalized.

20 Q Are there 1, 2 and 3 plans the order in
21 which they were drawn, you drew Plan 1 first, then
22 Plan 2, and then Plan 3, or is that just kind of
23 the number you assigned them after they were
24 complete?

25 A That's right. The numbers shouldn't be

1 thought of as sequential. It's just two
2 alternatives. And you'll note as you go through the
3 Gingles demonstratives, sometimes I've offered only
4 one, sometimes I've offered two. It depends on
5 whether I found examples that illustrated tradeoffs
6 in a way that I thought could be valuable to the
7 court.

8 Q So it would be fair to say as it goes to
9 the plan you selected certain examples that
10 illustrated a particular set of tradeoffs you were
11 considering in one part of the state?

12 A That's correct.

13 Q And so we have the different regions
14 we've been talking about, and these regions are
15 based on areas you selected from the current
16 district boundaries, right?

17 A Yes. That's right.

18 Q And none -- except for -- well, do any
19 districts cross out of the regional boundary any of
20 the plans that you've created?

21 A Well, they shouldn't. So if I've
22 executed the design correctly, then they won't.

23 Q And that's true for Atl 1, 2 and 3,
24 right?

25 A Yes, my expectation is that you'll find

1 that all of those respect to clusters.

2 Q And did you have any particular
3 methodology you used to select those regions, or is
4 it just through kind of working gives a good
5 collection of the districts?

6 A There's no methodology in the sense
7 of -- no algorithm executed to select the regions.
8 They were chosen by looking for combinations of
9 districts where at least an initial analysis seemed
10 to show some elevated concentration which could
11 amount to packing and some depressed concentration
12 which could amount to cracking.

13 And then my goal was to group those and
14 see if I could remediate the potential packing and
15 cracking.

16 Q And so like, for example, in the SD East
17 Black Belt, you're not saying every county in that
18 region is in the Black Belt. It's is a working area
19 basically, right?

20 A Absolutely. I tried to give them names
21 more evocative than, you know, A, B, C, D, E. But
22 no, I don't mean to say that every county in that
23 region should be thought of as part of a Black Belt,
24 nor, of course, should SD Gwinnett all be thought of
25 as Gwinnett. Right?

1 Q Well, I have a similar question for HD
2 DeKalb. Like I said, we've already kind of answered
3 that question there, but it's not -- we're not
4 saying it's all connected to DeKalb County.

5 A That's right, just that it includes a
6 significant portion of the county.

7 Q All right. So moving to the state
8 House -- let me call you to the state House section
9 and then that will be a good break point before
10 Section 5 and give you plenty of time. You can take
11 a minute.

12 Again, you have an uncompetitive design,
13 you said, and that refers to districts, not the
14 overall part of the makeup of the plan; right?

15 A Right.

16 Q And when you say half the districts were
17 uncontested, that's referring -- I'm sorry -- more
18 than half were uncontested, that's referring to
19 uncontested in the general election, not the
20 primaries; right?

21 A Correct.

22 Q And your regions that you selected on
23 the House plan are different than the regions in the
24 Senate plan because they're made up of House
25 districts; is that right?

1 A Exact right.

2 Q And did you follow a similar process for
3 how you selected the regions for the House plan as
4 you did how you selected regions for the Senate
5 plan?

6 A Exactly similar.

7 Q And we've talked about the design and
8 the Alt House plans was essentially the same as how
9 you worked on the components of the Senate plan,
10 right?

11 A That's right.

12 Q And looking on Page 15 at Figure 7,
13 areas of the state that are not having -- they don't
14 have color of any sort are areas where no districts
15 were changed in any of the three plans; is that
16 right?

17 A Again, that's definitely the design, and
18 so if I implemented it successfully you won't see
19 any changes in the white areas of the state here.

20 Q The areas in white on Figure 7 also
21 correspond to areas where generally there's less
22 minority population in Georgia. Isn't that right?

23 A Generally. And so I wasn't observing
24 those patterns of high concentration and low
25 concentration that led me to think that I might see

1 remediable packing and cracking.

2 Q And so the primary focus really was
3 looking for areas where you thought you could find
4 remediable packing and cracking; right?

5 A Well, generally I would say that I was
6 trying to create -- because this is for -- in the
7 first instance my goal was to create Gingles
8 demonstrative maps.

9 Of course I reused the clusters later
10 for the purpose of effectiveness analysis or
11 effectiveness alternatives, I should say.

12 And so to create Gingles districts,
13 again, which require 50 percent plus 1, you need to
14 have some minority population in order to achieve
15 that.

16 Q And in the House section you indicate
17 that there were 42 House districts that were
18 unchanged, but then I didn't see a similar count for
19 unchanged Senate districts, although I think we both
20 can confirm visually there's really some that aren't
21 changed; right?

22 A That's right. But the difference is
23 that in the Senate clusters they cover the whole
24 state. And so that means every single district
25 could at least be potentially changed according to

1 the design. Or, as according to the design of the
2 clusters on the House side, 42 districts couldn't
3 change.

4 Q Thank you. So in -- kind of going back
5 over Section 4 of your report, this is really the
6 section where you're presenting these alternative
7 plans, you're not providing any expert opinions in
8 this section; is that right? Or am I missing some
9 piece of the puzzle?

10 A No, that's quite right. This section's
11 just intended as an overview and introduction to the
12 alternative plans.

13 MR. TYSON: If we could go off the
14 record, then.

15 THE VIDEOGRAPHER: We're going off the
16 record at 2:53.

17 (Recess.)

18 THE VIDEOGRAPHER: We're on the record
19 at 3:15.

20 Q (By Mr. Tyson) All right, Dr. Duchin.
21 We're going to move into Section 5 to your report
22 now. So getting into the effective opportunity to
23 elect districts in your assessment here, I'd like to
24 ask a few questions about the different things that
25 we're looking at.

1 First of all, you reference giving great
2 deference to the legislative enacted plan. And the
3 deference you're referring here is giving deference
4 by using the modular approach of getting them back
5 into existing districts. Is that fair to say?

6 A Yes. What I mean to say is that I'm
7 attempting to draw effective districts within the
8 frame work of the cluster approach.

9 Q You reference to the next paragraph,
10 you've offered your alternative districts that
11 showcase effective electoral opportunity and you
12 say, "This shows that the harms to voters can be
13 remedied by better district design."

14 What are the harms to voters that you're
15 referencing there?

16 A Well, I mean the harms of reduced or
17 eliminated opportunity to elect candidates of
18 choice.

19 MR. CANTER: And, Bryan, I think it just
20 says by better design, not by better district
21 design on Page 16.

22 MR. TYSON: Oh, I'm sorry. I thought I
23 said by better design. Yes, that's correct.
24 Thank you, Jacob.

25 Q (By Mr. Tyson) And next you say you look

1 at the alternative districts in the context of --
2 well, let me make sure I phrase this correctly. The
3 next part of that sentence says, "in the context of
4 racial Gerrymandering demonstrates that better
5 performance on traditional districting principles is
6 completely compatible with greater electoral
7 opportunities for black and Latino voters." Right?

8 A Right.

9 Q And in referencing better performance on
10 traditional districting principles, that's referring
11 to the metrics that we'll get to in Section 6 of
12 your report; is that right?

13 A Well, actually to the metrics and also,
14 as we discussed earlier, to some kind of holistic
15 consideration of the less quantifiable principles
16 like respect for communities of interest.

17 Q And so is it your understanding that
18 when a legislature is drawing redistricting plans it
19 should create districts that maximize the number of
20 districts electoral opportunity for
21 minority-preferred candidates?

22 A To be clear, when you say "should," are
23 you asking about requirements or are you asking
24 about best practices?

25 Q So I'm first about requirements, then I

1 want to get to best practices.

2 A Sure. There's no maximization
3 requirement that I'm aware of anywhere in the
4 country.

5 Q And you reference best practices as
6 well. Is it a best practice for a legislature to
7 draw as many electoral opportunity for
8 minority-preferred candidate districts as it can?

9 A Well, I think that one of the features
10 of the American electoral system is that there's a
11 lot of control at the state and local level about
12 guidelines. And I can't speak comprehensively about
13 guidelines around the country having only seen those
14 in certain states and localities.

15 I've never seen one -- I've never seen a
16 written set of guidelines that calls for
17 maximization.

18 Q Now, moving down through that section,
19 you say there are many reasons that we should not
20 rely on the 50 percent plus 1 line as a predictor of
21 electoral opportunity. What is that referring to?

22 A Yes. Here I'm trying to carefully
23 distinguish that Gingles 1 v. Bartlett bright-line
24 from the notion of opportunity, which is a softer
25 and more contextual notion.

1 Q And so not relying on the 50 percent
2 plus 1 line as a predictor of electoral opportunity,
3 you're not saying that's the state of the law today.
4 You're just saying -- you're trying to distinguish
5 where Bartlett is from that?

6 A Oh, I do think that in the state of the
7 law today that these two concepts are distinct. The
8 concept a majority district has a role in the law,
9 but that's distinct from the concept of an
10 opportunity district even in the law today.

11 MR. CANTER: And I'm going to object to
12 the extent it was calling for a legal
13 conclusion. Just be careful on that point.

14 THE WITNESS: Thank you. I think
15 that's -- that's a good reminder. We're
16 talking about my understanding that informs my
17 expert work.

18 I certainly don't mean to be opining on
19 anything that requires a legal conclusion.

20 Q (By Mr. Tyson) Now, have you drawn maps
21 for jurisdictions to the used in elections?

22 A Yes.

23 Q And have any of those been statewide
24 plans?

25 A Well, it -- here it depends on -- often

1 drawing maps that are ultimately enacted involves
2 participation from many people. But I had a role
3 in, for instance, the drawing of the Massachusetts
4 state Senate districts in this cycle.

5 Q And in that role do you advise
6 legislators or others who are drawing or working
7 with you on those plans that maximizing electoral
8 opportunity for minority-preferred candidates is a
9 goal they should ascribe to?

10 A I've certainly never advised that as a
11 goal.

12 Q And so ultimately in this report, I
13 guess since we're getting into the section, it's
14 criticizing Georgia for not drawing enough majority
15 minority districts on its Congressional House and
16 Senate plans. Is that fair?

17 A Oh, I wouldn't say so. Rather than
18 criticizing Georgia for not doing enough, what I'm
19 trying to do here is create a framework for
20 measurement. And then, as I say in the section
21 we've already reviewed, providing maps that
22 demonstrate that it's possible to get more
23 opportunity while still being very respectful to
24 DPs.

25 But I don't think it amounts to

1 criticism per se. That's -- again, my goal is to --
2 here to give a framework and offer alternatives not
3 to criticize per se.

4 Q Let me move into probative elections and
5 the process for identifying those.

6 A Yes.

7 Q And you start by saying that it's well
8 understood in voting rights -- in the voting rights
9 sphere it's well understood that certain past
10 elections are more probative.

11 Are you relying on literature for that
12 or other discussion? What are you referring to as
13 the voting rights sphere?

14 A Well, certainly in the first instance
15 the scholarly peer-reviewed literature to which I've
16 contributed in this area.

17 And so I have publications where I've
18 discussed the selection of the probative elections
19 and the kind of weight that you might put on
20 different contests in a context like this one.

21 Q And you reference several factors that
22 probative contests often include the following, and
23 one of them is that when they have a viable POC
24 candidate on the ballot; is that right?

25 A Correct.

1 Q And so generally a race that has a
2 person of color on the ballot who's a viable
3 candidate is going to be more probative of future
4 electoral success than of one where there is no
5 person of color candidate on the ballot?

6 A That's right. And I go a little bit
7 beyond that to say that depending on the minority
8 group on whose behalf, the -- the claim is advanced,
9 you'd -- you'd want to see a person from that group
10 on the ballot in order for the election to have the
11 sort of highest level of probativity.

12 It's important to clarify, though --
13 sorry.

14 Q Go ahead. I'm sorry. I didn't meant to
15 interrupt you.

16 A Oh, no, not at all. It's important to
17 clarify, though, that nothing here should be taken
18 to say that contests with all white candidates have
19 no value. That's certainly not what is meant here.

20 But that all things been equal, it's
21 considered a bit more informative, a bit more
22 persuasive when you include elections that have
23 members of the minority group as candidates.

24 Q And so looking over at Table 3, I just
25 want to talk through some of those races there

1 because, for example, the Clinton-McCain race versus
2 Trump-Pence in 2016, there was no person of color
3 candidate on that race; right?

4 A Correct. That's corrected.

5 Q And there was no person of color in the
6 Perdue-Ossoff runoff in 2021; right?

7 A Correct.

8 Q And so how did you go about selecting
9 those races versus other races that were statewide
10 in Georgia in the same period?

11 A Well, partly, as I said, I did not
12 perform a polarization analysis, but I did
13 communicate with counsel about the findings of their
14 other expert who did perform a polarization analysis
15 and confirmed that these elections are ones in which
16 there are clear indications that people of color
17 supported the Clinton ticket and supported Ossoff.

18 So my -- to your broader question about
19 the method for selecting these? I did not prepare
20 the database of elections myself but was, as you saw
21 in the discussion of materials, some curated data
22 for these elections.

23 And from the elections that were
24 available to me, I chose ones according to exactly
25 the principles identified on the previous page.

1 So I prioritized more recent elections.
2 I prioritized but didn't insist on those that have a
3 minority candidate on the ballot. I looked for --

4 And I, again, confirmed with counsel
5 that there's -- a confident statistical inference
6 can be made about the preference of the groups that
7 are being considered. And I prioritized elections
8 that were at least somewhat close or had enough
9 regional variation to be useful for an analysis like
10 this.

11 Q Is there a particular reason why were
12 you didn't include the November contest between
13 Senator Perdue and Senator Ossoff and just the
14 runoff?

15 A As I sit here today I can't tell you why
16 I selected one rather than the other. But I
17 think -- if I recall correctly I found them to be
18 similar enough that it wasn't necessary to have them
19 both.

20 And so I chose one of them. And I think
21 the runoff was probably interesting for two reasons.
22 One is it has just to two candidates, so it doesn't
23 have the kind of confounding variable of right ends
24 and third-party and so on.

25 And two, I think it's valuable to have a

1 variety so that there's at least one runoff in each
2 category. So I have two runoffs, as you see, in the
3 general's dataset and one runoff in the primary's
4 data set.

5 Q And that kind of actually was going to
6 be my next question. In terms of the percentages,
7 the Trump-Pence versus Biden-Harris race, you have
8 the Democratic share as over 50. I'm assuming
9 you're excluding third parties to reach that number.

10 Is that right? Or does it just
11 not include -- exclude third parties?

12 A Absolutely correct. And I think this is
13 explained, again, on the previous page, at least I
14 hope it is. I'm always just showing the major party
15 share.

16 So, for instance, in the race that you
17 identified, the Trump-Biden race, the D share would
18 be votes for Biden over a denominator of votes for
19 Biden plus votes of Trump.

20 Q And that's because of the redistricting
21 context. The third party doesn't really had any
22 analysis -- or doesn't add any benefit to that
23 analysis. Is that fair to say?

24 A Yes. Not only doesn't it add value, but
25 I think given that the role here is to use statewide

1 elections to predict what are going to be districted
2 elections, I think it would actually -- the dynamics
3 of third-party involvement in statewide races is
4 quite different from local.

5 So, yes, it's my -- it's is consistent
6 with all my past practice to focus on that two-party
7 in a state like Georgia where that's what's relevant
8 ultimately.

9 I'll note that there are other -- you
10 always try to do -- I always try to do this analysis
11 in a very thoughtful and responsible way, and that
12 involves knowing something about the individual
13 state's electoral dynamics.

14 There are other states where you cannot
15 neglect third-party participation if you want to
16 understand districted elections, but Georgia is not
17 one of them.

18 Q And looking at the primaries that you
19 selected, all of those were from 2018 and all
20 involved black candidates. Is that fair to say?

21 A Yes.

22 Q And I know one of the things you
23 referenced is a blow-out election, you know, versus,
24 for example, the Robinson race where it's a 63
25 percent roughly portion of the statewide vote. Is

1 there a threshold you use to determine when
2 something moves from kind of -- it's into blow-out
3 territory where it's not really useful from the data
4 perspective?

5 A Yes. Well, you can't -- there's no
6 bright line. But you can get a sense by looking,
7 for instance, at Table 5 on the next page. And so
8 there you can see that Robinson's got, as you say,
9 62.9, almost 63 percent statewide. But if you look
10 around the districts it can dip as low at 47.89 and
11 it goes up here as high as 76, over 76.

12 And these are just for Congressional
13 districts. When you move to smaller districts, I
14 verified that the Robinson race was still
15 informative because you could see widely varying
16 results at the district level.

17 Q And in the 2018 school superintendent
18 primary, you're aware there was another black
19 candidate in that race along with Ms. Thornton,
20 right?

21 A I don't remember the names of the
22 candidates but that does match my memory.

23 Q Okay. And is -- how do you take into
24 account when there's multiple black candidates
25 versus a white candidate, for example, in that 2018

1 superintendent primary?

2 A Well, again, here I relied on
3 verification from counsel that a polarization
4 analysis had indicated Thornton as the candidate of
5 choice for Black and Latino voters.

6 Q And this is going to be an obvious
7 question as well. But you didn't include any
8 Republican primary contests, and is that because
9 there is not a sufficient of black voters in a
10 Republican primary to indicate a preference or a
11 particular candidate?

12 A That's correct. There's -- well, there
13 are two reasons, and that's one of them. There
14 aren't a lot of minority voters in Republican
15 primaries. And so the inference itself would be
16 difficult or perhaps impossible to do well.

17 But also, because of the clear
18 preference of black and Latino voters for Democrats,
19 the ability to nominate and elect has to go through
20 Democratic primaries.

21 Q So moving into the Section 5.2, how
22 built the scores that's involved there. You've
23 found a district electorally aligned with the
24 preference of black and Latino voters -- I'm sorry.
25 You will find a district effective if it is

1 electorally aligned with the preferences of black
2 and Latino voters in at least three out of four
3 primaries and at least five out of eight general
4 elections; right?

5 A Correct.

6 Q And if you had not included the
7 primaries then being electorally-aligned in 5 out of
8 8 general elections means it's likely to elect a
9 Democrat only; right?

10 A Well, so you'll notice that 5 out of 8
11 as opposed to, say, 7 or 8 out of 8, that's the
12 barest possible majority. And so it indicates that
13 more than half of the time a Democrat was elected
14 but it does not require the district to be a
15 Democratic block.

16 Q So you say that -- the next sentence
17 that it ascertains that minority preferred
18 candidates can both -- be both nominated and elected
19 from the district and it distinguishes minority
20 preferences from related but distinct Democratic
21 party preferences. Do you see that?

22 A That sounds right. Let me find it.

23 Q The second sentence in 5.2?

24 A Yes, I agree.

25 Q So in looking at kind of where those

1 preferences diverge, on Page 84 of your report you
2 have Table 46, which is the Senate -- enacted Senate
3 plan.

4 A Yes.

5 Q And I was looking to see which ones, if
6 any, there was a divergence between the primary and
7 general. And to me it looks like it was Senate
8 District 6, Senate District 14 and Senate District
9 42 and District 40.

10 Are those the only ones where you see a
11 divergence between primary effectiveness and general
12 effectiveness?

13 A Okay. So we're looking for one with
14 zero to 2 primary wins but 5 to 8 general wins? And
15 so I agree that District 6 -- I'll just clarify. So
16 I agree District 6 is such a district, 14 -- I'm
17 just scanning through quickly.

18 MR. CANTER: Could you please remind me
19 what page you're on right now?

20 THE WITNESS: Page 84.

21 MR. TYSON: Page 84, Table 46.

22 MR. CANTER: Thank you.

23 THE WITNESS: Yes, Districts 40 and 42
24 both have zero in the primary, 8 in the
25 general, and those are the ones that I see.

1 And so the conclusion that you might
2 draw from these is that under my notion of
3 effectiveness, these are likely to elect white
4 Democrats.

5 Q (By Mr. Tyson) And when you say "these,"
6 you're referring to the districts we just talked
7 about, and that is 6, 14, 40 and 42?

8 A That's right. And so you call that the
9 label that's attached. And of course that label
10 won't be correct all of the time. For instance, I
11 believe District 6 has an Afro-Latino
12 representative.

13 But what I did back in the section where
14 effectiveness was first defined, is I performed a
15 check that you could sometimes call ground truthing
16 in the statistical literature. So I have a
17 predictive label of effectiveness, and I compared
18 that to the actual outcome of 2022 election.

19 And what you see is that the track
20 record isn't perfect, of course. It would be hard
21 to design a perfect predictive analytic measure
22 here. But it's in my view extraordinarily good at
23 predicting.

24 Right. And you can see in particular --

25 Q And getting to that -- I'm sorry. Go

1 ahead. I didn't mean to interrupt you.

2 A Oh, not at all. You can see in
3 particular of the Senate districts marked
4 ineffective, that one, SD 6, is the only one of 37
5 where that prediction was kind of -- didn't -- was
6 not borne out in 2020.

7 Q So looking back at Page 17, at 5.2. So
8 I think this -- we may have just answered this
9 question. But you have a reference at the end of
10 fourth paragraph in Section 5.2. It says, "White
11 and/or Republican candidates can certainly be
12 preferred by voters of color, this is imperfect."

13 And do you have examples of where
14 Republican candidates were preferred by voters of
15 color or is this really only about white candidates?

16 A I am aware of examples in Georgia where
17 that's the case. But again, in other states, I have
18 been the Gingles 2 and 3 polarization expert, but I
19 am not in this case.

20 So I could probably more fluently relay
21 examples to you if I had done the polarization study
22 myself, but I did not.

23 Q And the end of that sentence it says,
24 "It's at least an indication that can help us assess
25 the labeling mechanism."

1 A Right.

2 Q And there it's just providing an ability
3 for us to kind of compare plans. Is that a fair
4 statement?

5 A Oh, no, that's not what I meant by that.

6 Q Okay.

7 A Instead I meant have I done a good job
8 constructing a label of effectiveness. This is
9 going to give us at least some corroboration that
10 the effectiveness label tends in general to
11 correspond to performance.

12 Q Okay. Got it. Thank you, Doctor.
13 That's a helpful correlation.

14 So moving into Table Number 4 in terms
15 of the enacted Congressional plan, we could say the
16 enacted Congressional plan has five opportunity
17 districts, each of which were electing a person of
18 color Democrat. Is that correct?

19 A 1, 2, 3, 4, 5 that I've designated
20 effective for electoral opportunity, correct. And,
21 yes, I believe all five did perform in the actual
22 election of 2022 in seating a candidate of choice.

23 Q If we move to the next page you state,
24 "In addition, this method works quite well to
25 distinguish race from party." This is obviously not

1 a regression analysis or any sort of other
2 statistical analytics. But is it your view that can
3 distinguish racial voting behavior from partisan
4 voting behavior?

5 A Well, what I mean here by distinguish is
6 that the effectiveness label is not merely a
7 correlate of Democratic success. It distinguishes
8 the preferences of the minority groups at issue hear
9 from the preferences of Democrats.

10 Q And that's because it's taking into
11 account Democratic primary votes where there was a
12 person of color on the ballot that was also the
13 preferred candidate of the black and Latino voters?

14 A There are two mechanisms by which it
15 distinguishes race from party in this phrasing.
16 that's one of them, the use of primaries. And the
17 other is the use of a low threshold, 5 out of 8, for
18 success in general elections.

19 Q And so on the Congressional plan there
20 were no districts that would elect white preferred
21 Democrat. Every district that would elect a
22 Democrat elects a person of color Democratic under
23 your effectiveness measure?

24 A That's right. Under the -- under this
25 framework, I identify no districts likely to elect

1 white Democrats, correct. I think that was the
2 question, right.

3 Q And -- yes, that's right. And then the
4 -- then you reference there's districts on the
5 Senate plan and that's out of the 56 state Senate
6 districts; right?

7 A That's right.

8 Q And eight districts out of the 180 House
9 districts; right?

10 A Right.

11 Q And so for districts that don't fall
12 into that category, the other 53 Senate districts
13 and the other 172 House district, does race and
14 party then overlap completely in these districts on
15 your effectiveness measure?

16 A Well, no, because if I understand the
17 phrase -- actually, maybe you can rephrase that and
18 I won't be guessing.

19 Q Sure. So what I'm trying to understand
20 if you're talking about the method works well to
21 distinguish race from party?

22 A Yes.

23 Q And what I'm trying to understand is on
24 the Congressional map there's really no
25 distinguishing between race and party because --

1 A In.

2 Q No? Okay. Can you tell help me
3 understand -- what we're talking about there?

4 A You bet. So the enacted Congressional
5 map -- this is a feature of the enacted map that it
6 has no districts in that kind zone in between.

7 You'll notice in particular -- I keep
8 saying it's a fairly or extremely uncompetitive
9 plan. So you'll notice that the general's numbers
10 are all zero and 8, right?

11 And you'll see that tendency to have the
12 zeros and 8s throughout the Senate and the House
13 plan as well, although it it's not a perfect streak
14 the way it is in Congress.

15 But the point of designing this frame.
16 Is also to assess proposed districts, not just
17 enacted districts. And I feel that this -- the
18 analysis described here in the bullet points and
19 this discussion of likely white Democratic districts
20 is going to be helpful of for me in assessing
21 proposed districts as well as enacted.

22 And there I think it will have a lot
23 work to do, an dit's important that that work
24 doesn't conflate race with party.

25 Q Okay. Thank you. That's really helpful

1 that makes sense.

2 All right. So looking back over Section
3 5 of the report again, are there opinions that
4 you're offering in this section of the report or is
5 this still more kind of building towards your
6 analysis?

7 A Right. I would say the second. This is
8 proposing and explaining a tool for the subsequent
9 analysis.

10 Q So let's then move to Section 6, metrics
11 for the enacted plan. And I like how you refer to
12 redistricting as an extremely complicated balancing
13 act in the process.

14 And you'd agree, drawing all 250
15 districts across all three plans is a complicated
16 undertaking. I guess we can all agree on that to
17 say the least; right?

18 A No question.

19 Q And so the various different factors
20 that have to be taken into account, those are what
21 you're talking about on the metrics in this section,
22 different criteria that a map drawer has to take
23 into account when drawing a plan. Is that fair?

24 A The general principles quoted here?
25 Yes, those are the one -- just verbatim and entirely

1 quoted from the state's guidelines. It has -- it's
2 much shorter than guidelines I've seen that other
3 state and doesn't attempt great precision, avoids
4 specifying metrics.

5 And so I've discussed some -- you know,
6 I sort of have room to discuss some principles and
7 -- especially metrics for measuring those principles
8 that go beyond the ones in these guidelines.

9 MR. TYSON: Sorry, Jacob. I saw you
10 drop off and I wasn't sure if you were still
11 on. I was checking the list.

12 MR. CANTER: All right.

13 Q (By Mr. Tyson) So you -- to that point
14 you reference it's unusually terse for a
15 redistricting framework at the state level, the
16 principles the legislature adopted. How many
17 other states' redistricting framework have you
18 reviewed?

19 A Well, I've been an expert in seven
20 states in this cycle and have reviewed the
21 frameworks for other states where I helped advise
22 legislatures and commissions. So I would say I've
23 probably gotten to know the frameworks in at 15 or
24 20 states.

25 Q And so when you're referring to this

1 being unusually terse framework, that's in reference
2 to the 15 or so that you've looked at in other
3 states?

4 A Yes, what's what I meant. I meant that
5 of the one that I reviewed, I think this may be the
6 shortest I've seen.

7 Q And have you looked at Georgia criteria
8 or principles of redistricting from prior
9 redistricting cycles?

10 A No, I haven't.

11 Q So in looking at the various metrics --
12 we'll move to population balance. And I guess this
13 is the first -- Table 7 is the first of several
14 tables that are going to compare various metrics
15 among the enacted plan and then various alternative
16 plans. Is that right?

17 A That's right.

18 Q And so in looking at the enacted Senate
19 district for the alternative 1, 2, and 3, you'd
20 agree the deviation is higher -- the total deviation
21 is higher on all the alternative plans than on the
22 enacted plan; right?

23 A Yes, it is.

24 Q And that's also true for the House
25 alternative plans? Higher deviation for each of the

1 alternative than for the enacted plan?

2 A Yes, that's correct.

3 Q And then looking at compactness, you'd
4 agree that compactness is something you have to
5 measure in relationship or comparison to something
6 else. It's not an objective measurement. Is that
7 generally correct?

8 A I think the term I would use rather than
9 objective -- I mean, to me objective just means not
10 influenced by personal discretion. So all of these
11 would be objective in that sense. But I think the
12 question is about whether it can sort of stand alone
13 or whether it's best used comparatively.

14 I've definitely argued very frequently
15 that compactness scores are best understood
16 comparatively. Although I think some people persist
17 in using them as though they can be read on their
18 own.

19 Q And so you'd agree that there's not a
20 Polsby-Popper score where a district is not compact,
21 it's just more or less compact than something else;
22 right?

23 A That's right. And furthermore, more or
24 less compact by the likes of that one metric. So I
25 kind of referenced this earlier when we were talking

1 about a C-shaped district. But Polsby-Popper and
2 Reock, those are contour based scores that measure
3 slightly different things.

4 And so would probably -- unless there
5 was emphatic agreement among all of the metrics, I
6 would avoid saying something is more compact than
7 another full stop. And I would try to specific
8 measured how.

9 Q And in looking at the compactness
10 scores -- let's just take them kind of one at a
11 time. So the alternative plan, I guess, on
12 Polsby-Popper is slightly more compact on the
13 Polsby-Popper score than the enacted plan. Am I
14 saying that in the right formulation?

15 A That sounds good. Are we talking about
16 the Congressional?

17 Q Yes, I'm starting with Congressional and
18 Polsby-Popper.

19 A Right. So the alternative plan is more
20 compact by Polsby Popper than the enacted plan is on
21 average.

22 Q In your experience is a difference in
23 two hundredths of a point on Polsby-Popper a
24 significant difference in the plans?

25 A I think they usually call that two

1 points, as in two percentage points rather than two
2 hundredths.

3 Q Oh, two points. I'm sorry.

4 A I would try to resist making any blanket
5 statements about, you know, how big of a difference
6 is officially significant. I don't think that there
7 are -- I think it really depends where you are and
8 what you're measuring.

9 I've written about this at length.
10 Polsby Pepper scores in particular can penalize you
11 for following coastlines. They have all kinds of
12 features that make it desirable to understand them
13 in context and not try to say anything like 2
14 percentage points is an official big difference. I
15 would resist that.

16 Q And then conversely, I guess, for the
17 Reock on the Congressional plan, the alternative
18 plan is more compact than the enacted plan on the
19 Reock score as well; right?

20 A Right. So not conversely, but in --
21 it's not compact on both Polsby-Popper and Reock.

22 Q On both. Yes, I'm sorry. That's right
23 I was going the other direction. Yes.

24 And so for all the differences between
25 the various plans in Table 8 would you categorize

1 any of them as significant differences in
2 compactness scores?

3 A That's not -- I'm not sure. I mean,
4 it's possible that words like "significant" have
5 crept in in individual places. But I would say
6 generally if one plan is more compact than another
7 on all three of these measures, Polsby-Popper, Reock
8 and cut edges, then I'm comfortable saying that it's
9 generally more compact.

10 And that's certainly the case for this
11 CD Alt versus enacted CD. It's -- it's more compact
12 on all three of these measures. And so I would say
13 CD Alt is generally more compact than the enacted
14 plan.

15 Q And you knew the compactness scores of
16 the enacted plans when you were drawing the
17 alternative plans for Congress, House and Senate;
18 right?

19 A I knew them? I had certainly reviewed
20 them, yes.

21 Q And did you have as one of your goals in
22 drafting the alternative plans a compactness metric
23 to hit?

24 A No, I didn't have a numerical goal.

25 Q And your redistricting program that you

1 were using to draw the various plans didn't display
2 the compactness scores as you were drawing the
3 plans. You had to push a button or do something to
4 get that score, right?

5 A That's right.

6 Q Moving to the political boundaries
7 discussion on 6.3. This is the number of split
8 pieces and jurisdiction splits. And I know I
9 understand the difference in that, but if you could
10 just briefly just kind of explain what the
11 distinction is between county splits versus the
12 numbers of splits in a county or the number of
13 county pieces.

14 A Sure. Absolutely. And so county splits
15 might be better called split counties. It's just
16 the number of counties who -- which have parts
17 belonging in more than one district. So a county is
18 called split if it is touching more than one
19 district. That is, if it -- if part of its
20 territory is contained in no more than one district.

21 County pieces doesn't just ask a county
22 if it's whole or not whole, but counts the number of
23 districts that it is shared among.

24 So if you have a county that is part of
25 three -- where parts of its territory belong to

1 three districts, that contributes one to county
2 splits but it contributes three to county pieces.

3 Q Thank you. And in looking at the
4 various comparisons on -- let's just -- let's start
5 with just county splits or the number of times --
6 well, the number of counties that are split. We'll
7 just call it that. That's the first column in Table
8 9; right?

9 A Yes.

10 Q And so on the -- looking at the Senate
11 district, the comparison of the enacted to the
12 alternative plan on Alt 1 and Alt 3 have the same or
13 more county splits and Alt 2 has three fewer
14 counties that are split; right?

15 A That's correct.

16 Q And on that House plan, the enacted
17 House plan as compared to the Alt plans, Alt 1, 2
18 and 3 alternative plans have the same number or more
19 county splits than the enacted plan for the House;
20 right?

21 A That's right.

22 Q And you have a count of municipality
23 splits. Do you know Georgia prioritizes avoiding
24 splits of municipalities?

25 A Well, what I tried to do -- so I'm aware

1 that that's not only referenced in the guidelines we
2 just looked at but also it's a traditional
3 principle. But states really vary in what they
4 consider to be the relevant kind of municipality.

5 So I chose the definition here, as you
6 see, census places with functional status A, active
7 government providing primary general purpose
8 functions. Later in the -- when it came time to do
9 the rebuttal report, I had a chance to review the
10 deposition transcript of Director Wright, who was
11 the map drawer, as I understand it.

12 And in that transcript she did two
13 things. One was to mention that cities and
14 municipalities are the same thing. That's an
15 element of her testimony in her understanding in
16 redistricting relevant ways in Georgia, but, two, to
17 say that that was really quite a low priority for
18 her as a map drawer.

19 And so while I considered adjusting the
20 split count for munis to only look a cities, I
21 ultimately decided based on her testimony that that
22 wasn't necessary to include.

23 Q And when you indicated that it was part
24 of the -- the municipalities are part of the
25 principles of redistricting --

1 A Oh, that was my memory. I suppose I
2 should have gone back to check.

3 Q Yeah. I was going to ask you where that
4 was because I don't believe there's any reference to
5 cities in the principles.

6 A Sorry. I stand corrected. You're quite
7 right, which is probably another reason that I was
8 that a little bit on my own in deciding what the
9 relevant kind of municipality was for the purposes
10 of this report.

11 But I do stand by what I said a moment
12 ago, that it is a traditional principle.

13 Q And then the precinct splits that you
14 have listed here, is this only census VTDs or is
15 this the precinct information that you got from
16 counsel?

17 A Okay. This is not census VTDs and
18 actually I think that's an important point that I
19 was to emphasize. So we can go into the reasoning
20 if you want, but I think census VTDs are not
21 particularly relevant in this case. And so are what
22 I understand to be the State's own precincts which
23 best reflect their understanding of administrative
24 geography at the time of redistricting.

25 Q And are you aware of the process that

1 jurisdiction has to go through to change precinct
2 boundaries in Georgia?

3 A I'm not aware of the Georgia specific
4 rules, but it is something I've spent a great deal
5 of time trying to understand nationally.

6 Q Let's go next to the racial demographics
7 in Table 10. And so just to kind of walk through
8 each of our columns here, majority BVAP is majority
9 any part voting age population -- I'm sorry -- the
10 majority BVAP column refers to the majority any part
11 black voting age population on the census data;
12 right?

13 A Exactly.

14 Q And then majority BHVAP refers to
15 majority AP black plus Latino voting age population
16 on the census data; right?

17 A Well, right with one clarification. You
18 can't simply add any part black to Latino because
19 you will have double counted Afro Latino residents.
20 So you subtract those off so that the BHVAP doesn't
21 double count anyone.

22 Q So you don't use -- you don't use know
23 single race black. You would use any part black and
24 then subtract individuals who identify as black and
25 Latino?

1 A That's correct. And that way what --

2 Q And then --

3 A I'm sorry.

4 Q I'm sorry. I'll let you finish your
5 answer. I'm sorry.

6 A Thank you. That way what you've
7 effectively constructed in HVAP is black or Latino.
8 So anyone who checks the box on the census form
9 indicating that they were black or indicated that
10 they had Hispanic and Latino identity.

11 Q And then the majority BHCVAP number
12 takes the citizenship race and the ACS data, the
13 block data that you referred to earlier and
14 determines the number of individuals who are in that
15 checked either black or Latino or both and who are
16 citizens of voting age; right?

17 A That's right. So it uses exactly the
18 process described earlier to estimate citizens of
19 voting age in the black and Latino VAP categories
20 and adds those together.

21 Q And the effective district column is
22 the -- is your effective district reference you
23 talked about in Section 5 of the report where it's
24 district that are performing in both the primaries
25 and the general election, right?

1 A Right. I usually save the word
2 performing for empirical outcomes in elections. So
3 it's the districts designated effective by the label
4 we described before.

5 Q And just -- and just so we're clear, the
6 districts where, for example, on the state Senate
7 where they're not electing candidates of choice on
8 the four primaries but are -- are 5 of 8 or more on
9 the general would be Democratic districts that would
10 not be included in the effective column; is that
11 right?

12 A Right. For instance --

13 Q Or likely Democratic districts. I'm
14 sorry. Yes.

15 A Well, exactly. That was the distinction
16 I was going to make up. It's that the label
17 predicts that those would be white Democrats would
18 be likely to be elected. But it's just a predictive
19 label.

20 Q And so the number of likely Democratic
21 districts in a general election would be higher than
22 the number on the effective column on this table,
23 right, or could be?

24 A It certainly could be, that's right. It
25 could also -- if you were just looking at likely

1 Democratic districts, you might pick a higher
2 threshold than 5 out of 8. And so if you did that,
3 it could be higher or it could be lower. It's just
4 a different -- and that's -- that was my point from
5 earlier.

6 This really is not attempting to get a
7 measure of Democratic performance. It's doing
8 something different.

9 Q And so in looking then -- let's kind of
10 look at the specific groupings we have. So we have
11 the enacted plan has two majority BVAP districts and
12 five majority BHBVAP [sic] districts, right? BHVAP
13 districts. Sorry.

14 A Yes. Let's get that right. Okay.
15 Sorry. So the enacted plan has two majority BVAP,
16 five majority BHVAP and just four majority BHCVAP.

17 Q Okay. And so the differences from the
18 enacted plan to the Alt plan for Congress with plus
19 2 BVAP, plus 1 BHVAP, and plus 2 BHCVAP and plus 1
20 effective, right?

21 A Correct.

22 Q And the Senate plan here. On just the
23 majority BVAP column are either going to go plus 3
24 majority BVAP for Alt 1 plus one majority BVAP for
25 Alt 2 and minus 6 majority BVAP for all three. Do I

1 have that right?

2 A That looks right.

3 Q And similarly for the House, only Alt 1
4 increases the number of majority BVAP districts and
5 that's plus 1, and Alts 2 and 3 both reduce the
6 number of majority BVAP districts over from the
7 enacted plan, right?

8 A I agree.

9 Q Let's move next to out incumbency and
10 core retention setup. So you reference the
11 incumbent database that you were provided by counsel
12 but U suspect that it's not current data given where
13 we -- where they stand. Please explain generally
14 what you're talking about in Section 6.5.

15 A Right. I was provided with incumbent
16 addresses. I then geo-located them, and based on
17 what I found I'm not sure that they're fully
18 accurate or up to date for everyone.

19 One reason is that there is a
20 requirement of living in the district for
21 legislative districts, though not for Congressional
22 and I wasn't finding that all the incumbents lived
23 in the districts from which they were elected.

24 So that leads me to think there were
25 some errors.

1 Q And you don't know the source of that
2 incumbent database but you provided it in your data;
3 right?

4 A I actually don't know the source except
5 that it was provided to me by counsel.

6 Q And so then I wanted to come down at the
7 end of 6.5 where you reference the state's line
8 drawers clearly placed a low priority on core
9 retention.

10 What is just since you're giving a
11 definition of core retention is that principle
12 referring to?

13 A So core retention generally refers to
14 preserving the -- either the physical geography of
15 districts from their benchmark configuration as much
16 as possible or the population, reassigning as few
17 people to new districts as possible.

18 I've seen it handled both ways in terms
19 of land and in terms of people. I think it would
20 probably be a bit more common and more accepted to
21 do the measurement in terms of people.

22 And so -- should I go on and explain how
23 the measurement is done.

24 Q Yes, if you could.

25 A Sure. Yeah, so you have to remember

1 that the benchmark plan was drawn with different
2 blocks because the census bureau changes the
3 particles, the atoms of redistricting each time
4 there's a new decennial release.

5 So what you have to do then is take the
6 boundaries of the old districts, take the population
7 according to the new census and ask each block is
8 your district assignment based on the boundaries
9 from the last plan the same before redistricting as
10 it is now after redistricting.

11 So there's a little bit of imprecision
12 that comes from those changing blocks. But for the
13 most part in my experience when different analysts
14 do this calculation with different software they get
15 the same or almost the same answer.

16 Q Okay. And when you're looking at that
17 comparison, are you looking just at did the
18 district's number change or did the -- are you
19 looking at did this voter get moved into a district
20 with a different group of people than they were in
21 that district previously?

22 A Right. I mean, that's a key question
23 and people often forget that the labels, the numbers
24 that you put on districts, those are a matter of
25 convention.

1 So if you kept all the districts exactly
2 the same but swapped the numbers, that could show up
3 as poor retention if you just do it by district
4 assignment.

5 So later when we get to -- I can't
6 remember if it's -- maybe Section 8 or 9, a later
7 section of the report I'm going to try to
8 distinguish those by looking at displacement in the
9 sense of labels but also looking at what I call
10 dismantling districts in the sense of breaking up
11 their residence across multiple districts.

12 Q Here when you're referring to more than
13 2 million residents were reassigned in the Congress
14 and state Senate plans, you're just referring to
15 district numbers only; is that right?

16 A Right. But I suppose it's worth
17 mentioning that I did check that the new numbering
18 is optimal in the sense that there's no renumbering
19 that would have made the core retention numbers look
20 better. I did check that. And that is the case.

21 Q And is that for Congress, Senate and
22 House you checked that?

23 A Yes. You could eyeball it for Congress
24 if the districts are big enough, but it's a -- it's
25 a computation for Senate and House.

1 Q And so you're aware from Director
2 Wright's deposition that the House districts are
3 traditionally renumbered at the end of each
4 decennial redraw; right?

5 A Yes.

6 Q And so it's your testimony that that
7 renumbering of the districts doesn't impact your
8 conclusion that 6.1 million people were voting in a
9 different district than before here on Page 24 of
10 your report?

11 A That's right. I -- my recollection is
12 that I ran a check to see whether any alternative
13 numbering would improve the core retention numbers,
14 and I found it would not.

15 Q And so when you say that this is an
16 unusually high displacement, what is that in
17 relationship to?

18 A That's in relation to my experience in
19 other states. I have never found an instance with
20 60 percent displacement in my limited -- admittedly
21 limited experience.

22 But I have looked at numerous other
23 states frequently both at the state level and at
24 sub-state levels you'll find. In states and
25 localities where there's an emphasis on core

1 retention you'll find far higher retention numbers.

2 Q And so wrapping Section 6 -- one more
3 question on this front. You are aware that on the
4 Senate plan there are districts that would be
5 collapsed in south Georgia and move to north Georgia
6 as part of the process; right?

7 A I did read that in the transcript, the
8 collapsed districts. And that's completely
9 consistent with -- with what I inferred from my
10 study of the map.

11 Q So wrapping up Section 6 of the report
12 here, you've reported a variety of metrics, but we
13 start at a point where you're offering opinions but
14 you're still just reporting statistics about the
15 various plans; right?

16 A Well, to some extent there are opinions
17 here such as the opinion that relative to other
18 states I find there to be low evidence of a priority
19 on core retention. You could characterize that as
20 an opinion.

21 And so along the way in the discussion
22 of these, there's some implicit opinions that are
23 articulated. But generally I agree with you that
24 the point of this section is to report the metrics.

25 Q Let's move next to the Gingles

1 Demonstration Plans. So in reviewing -- I'll start
2 with Congress, Section 7.1. And the alternative
3 plan that you've drawn does not make district 6 a
4 majority-minority district, it remains a majority
5 white district; is that right?

6 A Yes, that's right. In my CD Alt plan
7 District 6 is 57.1 percent white by VAP.

8 Q And District 3 is a district that now
9 has become a majority black VAP and BHVAP district,
10 right?

11 A That's correct.

12 Q Then moving to the Senate plans, you
13 indicate in the second paragraph there on Page 25
14 under 7.2 that the increase in majority BVAP, BHVAP,
15 BHCVAP districts is accomplished while maintaining
16 other traditional principles. Do you see that?

17 A I do.

18 Q And what is the basis -- is the basis
19 for you saying that the increase is accomplished
20 while maintaining other traditional principles like
21 compactness and splitting scores that are generally
22 comparable to or better than those of the state's
23 enacted plan that the metrics we looked at in
24 Section 6 are largely similar?

25 A Similar or better, that's right.

1 Q And so in dealing with the incredibly
2 complicated puzzle that we know redistricting and
3 the tradeoffs that are involved, when you're
4 creating the alternative Senate plans were you able
5 to prioritize any of the principles over any others,
6 or does each district involve a balancing of those
7 principles as you drew?

8 A You're always balancing. And as I
9 indicated earlier, when I found what I thought were
10 materially different ways of handling the
11 tradeoffs, I offered two options rather than just
12 one.

13 Q Let's look at some of those options,
14 turning to Page 26. And this is the SD Atlanta
15 region; is that right?

16 A Yes. Correct.

17 Q And so in this -- in this plan District
18 16 as it's drawn, it looks like it's the
19 southernmost district -- we'll call it that just for
20 easy reference on this -- includes parts of Clayton
21 County with other more rural counties south of
22 Atlanta, is that right?

23 A I'm not sure I could pick out Clayton
24 confidently without a label, but I think if I have
25 it right, then yes.

1 Q And Fayette County -- we'll make it a
2 little easier. Fayette County is all dark blue on
3 Alt 1?

4 A Okay.

5 Q That includes a part of south Fulton
6 along with all of Fayette; right?

7 A Yes. That's what it looks like.

8 Q And so is there a particular methodology
9 you used in deciding to put, for example, south
10 Fulton with all of Fayette?

11 A That wouldn't have been, you know, a
12 sort of explicit consideration. I looked to see if
13 there were ways of drawing the maps that balanced
14 the principles that we've discussed.

15 These should be understood, of course,
16 as demonstration maps that show that it's possible
17 to do several things at the same time. And that's
18 the intent of presenting them here.

19 Q Okay. And so you weren't considering,
20 for example, the rural nature of southern Fayette
21 and the more urban nature of south Fulton as you
22 were drawing the alternative plans, right?

23 A Generally as we discussed earlier, I had
24 certain aspects of community testimony in mind
25 because, as we discussed, I reviewed that testimony

1 at the same time that I was doing map drawing. But
2 as a general matter, I think it's important to
3 emphasize again that these are particular kinds of
4 demonstrative plans that have a particular racial
5 threshold that they in my understanding have to hit
6 by law and that they're not the same as remedial
7 plans which come at a later stage of the Voting
8 Rights Act.

9 Q And so these are examples, they're not
10 districts that the legislature should have
11 necessarily created? It's more just to show a
12 problem?

13 A I think the role of Gingles 1
14 demonstrative plans is to show that there's a
15 problem and to show that the problem is remediable.

16 MR. CANTER: Bryan, we've been going --

17 Q In looking --

18 MR. CANTER: We've been going just about
19 an hour, just if you're -- Moon, if you're
20 fine, then we can keep going. I just wanted
21 to --

22 THE WITNESS: Yeah, I -- I'd love to
23 keep going for now.

24 Q (By Mr. Tyson) All right. So looking
25 over at tables 12 and 13, this is where you're

1 comparing the enacted plans to the alternative
2 plans, right?

3 A That's right.

4 Q And so in looking at Alt 1, for example,
5 you have districts 34 at 72.2 percent on BVAP,
6 right?

7 A Yes.

8 Q And in Alt 2, District 39 is at 86.5
9 percent on the BVAP number, is that right?

10 A That's right.

11 Q Do you consider either of those
12 districts to be packed under your definition?

13 A Well, so the definition of packing is
14 elevation of the -- that I gave before. So my -- my
15 working definition for the purposes of this report
16 is the elevation of minority population past what's
17 necessary to achieve a certain goal.

18 And so here -- in particular, to achieve
19 electoral opportunity. So here my claim isn't that
20 I've tried to optimize demographics. In fact, as I
21 think we all know in redistricting, there's a
22 delicate balance we're trying to strike where you
23 must be race conscious at least to hit the 50
24 percent plus 1 threshold.

25 But you try to be minimally race

1 conscious because it's -- it's best not to let --
2 you're required not to let race predominate over
3 other concerns.

4 And so this area, we're looking at the
5 Atlanta region, has a lot as we saw in the dot
6 densities before. It's -- it's quite a segregated
7 area. There are areas with very high concentration.
8 And so if I'm only looking at race in order to meet
9 that 50 percent threshold, then it is likely that
10 I'll tend to see some districts with extremely high
11 black voting age population.

12 So, again, if I'm not exclusively trying
13 to bring that down but only trying to draw minimally
14 racer conscious alternatives that meet the threshold
15 requirement, then it's not surprising to see high
16 concentration.

17 Q And just so I understand that last
18 point, so your goal is to draw minimally race
19 conscious districts that are above 50 percent, that
20 essentially -- like, for example, District 39 on Alt
21 2 is leftover population after you created those
22 other districts that were above that 50 percent
23 threshold?

24 A No. Rather what I mean to say is that
25 based on the size of the Senate district and the

1 regions which are very heavily black I found that I
2 was creating some district with very high black
3 percentage just as a matter of human geography but
4 that even though that was happening it did not
5 impede my ability to draw additional majority
6 districts. So that the Gingles threshold standard
7 is quite easily met in this part of the state.

8 Q And so then in your mind the 86.5
9 percent district on Alt 2 wouldn't be packed because
10 the Gingles threshold can be met in districts around
11 it?

12 A Well, the term packed is -- is not as we
13 saw before a matter of bright lines. It's
14 definitely true -- as I said, when I have two
15 different demonstration plans it's often that I'm
16 trying to illustrate a tradeoff.

17 And so here Alt 2 has fewer majority
18 districts than Alt 1 does but still more than the
19 state. And on the other hand, it's a bit more
20 compact, maybe even substantially more compact
21 depending on what you think counts as a substantial
22 difference.

23 So you're seeing tradeoffs here. And I
24 think it's the -- the stats that we see in Alt 1
25 where there are nine majority BVAP districts, ten

1 majority BHVAP and also ten by BHCVAP. What I've
2 shown here is that that's readily accomplished while
3 being highly mindful of other principles. Alt 2
4 shows that if you dial up certain other principles
5 you can still even with a very heavy emphasis, say,
6 on compactness, you can still achieve that while
7 increasing the number of majority districts over the
8 state.

9 Q Let's look next to Page 28 which is the
10 SD Gwinnett area. And this one, unlike the prior
11 set of maps, only has an Alt comparison, not an Alt
12 1 and Alt 2 comparison. Is Alt 2 any different in
13 this area?

14 A There is no Alt 2. I'm sorry. Can you
15 ask that a different way?

16 Q Certainly. So I just wanted to
17 understand in the SD Atlanta region you provided
18 enacted, Alt 1 and Alt 2. In the Gwinnett you only
19 have enacted an Alt 2. And so my question is: Is
20 Alt 2 in SD Gwinnett different than the enacted or
21 different than Alt 1, or are you just selecting one
22 to look at?

23 A Oh, I'm sorry. I don't mean to be non
24 responsive. But there is no Alt 2, so I can't
25 describe it's properties. But --

1 Q Okay.

2 A Yeah, maybe if you rephrase. Because
3 there's no Alt 2 to describe.

4 Q Let me ask this: Why is there not an
5 Atl 2 on Page 28 but there is an Alt 2 on Page 26?

6 A Absolutely. Fair enough. I'm just
7 trying to -- just trying to understand the question.
8 So I've offered two alternatives: One I found, too,
9 that illustrated a tradeoff in a way that I thought
10 might be interesting for the court.

11 So in Atlanta we saw -- we just
12 discussed the tradeoff. The tradeoff was districts
13 that you could arguably describe. You might even
14 say there's some -- there's some unintentional
15 packing or some overconcentration in some of the
16 districts in Alt 2 as you just described.

17 And if you reduce that, you can create
18 more majority districts. However, Alt 2 is more
19 compact. You know, we just described the tradeoffs.

20 In Gwinnett I didn't have an example of
21 a tradeoff that I wanted to illustrate. And so I
22 think Alt 1 works as a Gingles map, is I think quite
23 compelling. And again, I always -- in all of these
24 clusters I found many examples, not just one. But I
25 didn't find that there were two that were kind of

1 materially different in ways that might be valuable
2 for the court in Gwinnett the way I found in
3 Atlanta.

4 Q So looking at Page 30. This is SD East
5 Black Belt.

6 A Yes.

7 Q So we have the Alt 1 plan that, like we
8 talked about earlier, kind of walks around the
9 purple district that's centered or I guess goes into
10 Augusta.

11 Both of these plans, though, split
12 Laurens County, which is kept whole in the enacted
13 plan; is that right?

14 A Which one's Laurens.

15 Q Laurens -- well, Laurens is on Alt 1
16 where it's a split county between the purple and the
17 orange-ish-beige district.

18 A Okay. Just a moment. I'll try to find
19 it. Purple and beige. Yes, I think I found it.

20 Q Okay.

21 A No, that's not it. No. I'm sorry. So
22 which part of the district is it in?

23 Q It's the southern part of the -- I guess
24 that's District 24.

25 A Oh, yes.

1 Q And it has that portion into Dublin in
2 the purple part. Yeah.

3 A Okay. And what about it?

4 Q That is green and whole on the enacted
5 plan; right?

6 A Uh-hmm. Yes.

7 Q And are you familiar with Macon-Bibb
8 County on the western side of all of these -- of
9 this region?

10 A Yes, generally I am.

11 Q And all -- all these plans split
12 Macon-Bibb County; right?

13 A It looks like it.

14 Q Looking at these maps, is there a
15 particular district on Alt 1 that you're opining the
16 state should have drawn and failed to do so?

17 A Oh, it's not my understanding that
18 Gingles 1 exactly works that way in my
19 understanding. It's not that the state should have
20 found any particular district that I drew, but that
21 I'm demonstrating it was possible to draw a district
22 in some way.

23 So the state could have, of course,
24 found a totally different configuration that
25 nonetheless is -- resists this kind of Gingles

1 improvement, if you will.

2 Q And, again, in terms of-- I'm sorry.
3 I'll let you finish.

4 A I keep doing that. I apologize. In
5 particular, the -- the third coalition district that
6 both of my alternative maps have, I am suggesting
7 that the -- had the state drawn a third coalition
8 district, I would have not been able to produce a
9 Gingles map improving on that.

10 Q And in terms of the SD Black Belt, East
11 Black Belt Senate district, you didn't conduct any
12 sort of ability to elect analysis on these
13 alternative plans like you'd done on the effective
14 scores; right?

15 A Well, I think that is an ability to
16 elect analysis, the effectiveness scores. And I do
17 have for these plans. We can find it later in the
18 report. It's --

19 Q Okay. So you would consider the
20 effectiveness scores to be an ability to elect
21 analysis that you conducted on these districts,
22 right?

23 A Yes.

24 Q Okay. And so in looking at the
25 configuration of these districts, so if -- for

1 example, you have Augusta in Richmond County in Alt
2 1 going down into the split of Laurens County and
3 over into Milledgeville. But as I understand it,
4 you don't have necessarily a particular reasoning
5 behind why you connected certain parts of these
6 districts together; is that right?

7 A That's right. It's not the case that I
8 would approach these by saying, oh, this county and
9 that one should be or can't be together. I was
10 really looking broadly at what's possible from
11 reconfiguring these seven districts.

12 Q So it's not a community of interest
13 you're looking to protect or put together in these
14 various Alt configurations?

15 A Well, again, I didn't have a
16 quantitative measure for communities of interest
17 here, which I have been able to use in other states.

18 But I'll just point out -- although I'm
19 sure we'll get to it later, I'll just point out to
20 preview that the way that the state collected
21 testimony didn't lend itself to a mapping approach
22 very easily because the testimony is all narrative
23 and didn't include mapping data.

24 Q And just so I can understand -- I know
25 we talked about the various regions and you've only

1 selected out a few of the regions. I didn't see
2 that there were, for example, a DeKalb or -- I'm
3 sorry -- a northwest or southeast or southwest
4 region in this Section 7 of your report. Is that
5 because those were unchanged and they're only
6 changed on the Alt 3, or is that because they didn't
7 have an illustration that you wanted to point out?

8 A I would say that I have quite a high
9 standard for what I would offer as a Gingles
10 demonstration map. And so while I had, as you can
11 see throughout the rest of the report, no trouble in
12 reconfiguring maps to create more electoral
13 opportunity all around the state, I've only selected
14 some to put forward as Gingles demonstratives.

15 Q Okay. And that helps. So in terms of
16 the -- basically on the Senate map there's three
17 areas where you're putting forward a Gingles
18 demonstrative, Atlanta, Gwinnett and the East Black
19 Belt; right?

20 A Yes. Exactly. So a total of five maps
21 in three regions.

22 Q Let's move next to the state House. So
23 we have, first of all, the HD Atlanta area, which is
24 quite a big spot south of -- south of Atlanta here.
25 And you have both Alt 1 and Alt 2. And actually, I

1 did ask this earlier. But when we were looking at
2 the title underneath where it says Enacted 18/18/18,
3 and that's referring to majority BVAP, majority
4 BHVAP, and majority BHCVAP; correct?

5 A Yes, that's correct.

6 Q So in this area you've gone from enacted
7 plan an 18 majority BVAP district to Alt 1 has 20
8 majority BVAP and Alt 2 has 19 majority BVAPs; is
9 that right?

10 A Yes, that's right.

11 Q So in looking at these and -- actually,
12 let me just -- and this may not make a lot of sense
13 to ask but the primary difference, it seems to me,
14 between these three on the western side involve the
15 treatment of Douglas County, which the -- the second
16 county over after the green part that's in Carroll.
17 The enacted plan is a lot more kind of north-south
18 oriented district. The Alt plans are more east-west
19 oriented.

20 And is there particular reasoning why
21 you've reconfigured Douglas County this way?

22 A Well -- okay. So I'll mention. So even
23 though there are 25 districts in the clusters,
24 you've correctly noted that a number of them didn't
25 change at all, like that green district, which I

1 think is number 71 all the way to the left.

2 And that's partly because given the
3 deference involved in carving out 25 from the
4 enacted plans, it was quite hard to change some of
5 these while still being respectful of county lines,
6 for instance.

7 So you're right to notice that a number
8 of districts don't end up changed at all in the
9 alternatives, even though I could have changed them
10 within the regional framework.

11 As to the question of converting
12 primarily north-south to primarily east-west, I'm
13 not sure I would characterize my alternatives as
14 primarily east-west. To me they look fairly plump
15 and compact.

16 And that reflects a priority on
17 compactness among that whole list we keep discussing
18 of elements to balance.

19 Q And similarly on Alt 1 where there's a
20 piece of Clayton in kind of a -- a olive-colored
21 district that starts in Clayton and runs down
22 through Fayette down into rural Fayette and
23 Spalding, there's no particular community or
24 explanation for the configuration. It just -- it's
25 a district that can be drawn that is now majority

1 black. Is that fair?

2 A Well, we can -- we can cross reference
3 and see if that particular one is now majority
4 black, but I believe you if that's what you're
5 representing. Is that District 75 maybe?

6 Q That's district, 75 yes. So I believe
7 it was majority black previously on the next page --

8 A That's right.

9 Q -- but it's been lowered in -- from 74
10 percent down to 54 percent.

11 A I agree. And, you know, incidentally
12 when I redraw I have to contend with the question of
13 labeling. And so what I've done is I've -- I've run
14 a computer script to identify optimal labeling. And
15 what I mean by optimal is that the most people
16 retain their district assignment that's possible
17 under any way of labeling these.

18 So the reason -- even though, as you
19 point out, the district extends much farther south
20 in the alternative plan than it used to, it still
21 overlaps in enough population with its enacted
22 configuration to get that label.

23 Q Okay. So you'd agree at the very least
24 district 75 has been elongated from enacted plan to
25 Alt 1 configuration, right?

1 A That's definitely right. It reaches
2 significantly further north south in the Alt 1 than
3 it did in the enacted.

4 Q Turning over to Page 34 and Table 17 and
5 18, I wanted to ask you about Table 18. You said
6 that Alt 2 dominates the enacted plan. And that's
7 based on the county splits and number of cut edges
8 only; is that right?

9 A So -- sorry if that's unfamiliar. So
10 dominates is a technical term from optimization in
11 which you say that one -- if you have
12 multi-objective optimization, if you have several
13 different metrics you're considering, to dominate is
14 just to be better in all.

15 That's all it means. I know the
16 connotations are sort of aggressive, but it's --
17 it's a technical term.

18 Q Great. Thank you. Thank you for that
19 clarification. I definitely was thinking a more
20 aggressive reading of that, not the technical
21 reading.

22 So in looking at the Alt plan again, I
23 noticed that on Alt 1 counted four districts that
24 are greater than 80 percent on the Black VAP number,
25 a district that's over 90 percent on Alt 2 in

1 District 57 on the Black VAP number.

2 Are these districts packed in your
3 estimation?

4 A It depends whether you're using the word
5 packed to kind of connote the intent to dilute the
6 vote. And certainly if you mean packed that way,
7 then they're not packed. Because there's no
8 dilutive intent, I can assure you.

9 If, on the other hand, you mean the more
10 restricted population concentration beyond what's
11 needed to achieve certain goals, I would say that
12 those are very high numbers but they reflect the --
13 what I found in the geography.

14 Now, of course, you can always attempt
15 to unpack that to counteract the human geography by
16 creating, for example, elongated districts. But I
17 found that that was not necessary here in order to
18 significantly improve on the number of majority
19 districts overall.

20 So, again, just to summarize. That was
21 a bit of a mouthful. What I'm saying is, yes, those
22 numbers are very high. No one's claiming you need
23 90 percent black population to have opportunity.
24 But, you know, the -- the tradeoff of compactness
25 and county splitting and so on that would be

1 necessary to bring those down isn't needed here in
2 order to meet the Gingles standard.

3 Q If we keep working our way along through
4 the southwest region, and this is a region -- in
5 looking at this, this looks like it's a plus 2 on
6 all three of the majority and coalition categories;
7 is that right?

8 A Yes. So now we're in HD Southwest, and
9 I see plus 2 in all categories.

10 Q And one of the things on the Alt plan I
11 noticed is Albany is the -- kind of population
12 center area. It's connected all the way down to the
13 Florida border. Again, is there a particular reason
14 why you're putting Albany with a border county
15 with -- on the Florida border like that?

16 A I would just repeat the explanation from
17 earlier that says that these are intended to be
18 demonstrations of what's possible, not necessarily a
19 call for a particular configuration in -- you know,
20 in this remedy at the end of the day.

21 Q And going over to Table 19, the HD
22 Southwest Alt 1 also does split more counties than
23 the enacted plan, right?

24 A That's correct.

25 Q And I think I know the answer to this

1 based on what we talked but the same question. Why
2 do we have an Alt 1 only for HD Southwest when we
3 have Alt 1 and 2 for the HD Atlanta region?

4 A I would say that even though I found
5 lots of Gingles qualifying maps in this region, I
6 didn't find two samples that really illustrated any
7 particular tradeoff I wanted to communicate to the
8 court.

9 Q Moving right along to the East Black
10 Belt on Page 37. This is a plus 1, it looks like,
11 on majority BVAP. It shows Alt 1 and Alt 2 as
12 compared to the enacted plan, right?

13 A On BVAP, that's right. And then there's
14 a difference on the HVAP, on the coalition
15 categories. There's an additional district in Alt 1
16 compared to Alt 2.

17 Q And it looks to me just from trying to
18 look at the configuration that there are more
19 districts going Augusta on the Alt plans than on the
20 enacted plans. Does that look right to you or sound
21 right to you?

22 A We could try to count.

23 Q I'm sorry. As to Alt 1. Yes.

24 A I don't -- just informally, I don't --
25 it doesn't look like there's a very different number

1 of colors in the area. But let me try to count.

2 That would be helpful.

3 Q That's all right. I was just trying to
4 understand. But I think that what we've talked
5 about here, you're not saying a particular district
6 like this -- you're not saying it has to be
7 configured this way, you're just giving an example
8 of what could be done?

9 A That is exactly right.

10 Q And then on Table 20 on the next page,
11 the Alt 1 map does split one more county than the
12 enacted plan for this region; right?

13 A That's correct, and Alt 2 has one fewer.
14 That's an example of a tradeoff, yes.

15 Q There we go. All the different
16 complicated things you have to balance on a map.

17 A That's quite right.

18 Q So in looking over at HD Southeast, this
19 is one I wanted to ask about because it looks like
20 the difference in the Alt plans and the enacted plan
21 is minus one on the majority BVAP district and no
22 change on the kind of coalition grouping districts.
23 Can you help me understand that?

24 A So what you've found quite rightly is a
25 typo that I did notice in the preparation session.

1 So if you just slip to the next page, you can see
2 that there are five coalition districts by VAP. So
3 that should say five, not four. And that's a typo.

4 Q Got it. Okay. And so that's five for
5 both the majority -- for both the BH -- I'm sorry.
6 That's true for the BH VAP HVAP number, right?

7 A That's right. And we can just -- let's
8 quickly flip ahead and check this out for -- let's
9 see. So that's Districts 161 -- so 161 is the
10 additional majority BH VAP district in both of
11 these. And I'm going to quickly flip ahead to the
12 next section and look at House District 161 and not.
13 But it stays the majority by CVAP.

14 Unfortunately, there's just so much data
15 associated to these maps that I had to split it, in
16 some cases, across multiple tables. So the numbers
17 should be 055 for both of the Alts.

18 Q All right. And then, again, I think I
19 know the answer here, but in terms of not presenting
20 reconfiguration for HD Cobb, DeKalb or Gwinnett,
21 that's just because you didn't feel like it met the
22 standard for Gingles 1 maps in those areas. Is that
23 right?

24 A That's right. And that's not to say
25 that another mapper couldn't -- I'm not opining that

1 it's impossible to meet the Gingles standard, but
2 just in my personal way that I like to balance the
3 demands, I didn't find anything that I choose to
4 pursue.

5 Q And your methodology for choosing what
6 you were going to present and what you weren't was
7 just your own standard of looking at the map and
8 determining what you felt like was the strongest?

9 A Well, you know -- so, as I said a moment
10 ago, we're engaged in what technical folks call a
11 multi-objective process where you have all these
12 different metric attributes, the eyeball tasks, and
13 communities interest, and many other things.

14 And so to me the question is did I find
15 maps that I could confidently describe as meeting
16 the most stringent Gingles demands while being in my
17 view balancing all the other attributes in a way
18 that I could describe as being comparable or
19 stronger.

20 And so I wasn't able to meet my own
21 standards. And again, that doesn't mean that
22 someone else couldn't or that I couldn't with more
23 time.

24 Q But to be clear, in Section 7, Section 7
25 contains all the maps that you're presenting as

1 Gingles demonstration maps in this case, right?

2 A Yes, quite right.

3 Q And aside from presenting these maps as
4 Gingles demonstration maps, are you offering any
5 other opinions in this part of your report or just
6 providing the maps and the data that you selected?

7 A If opinions come out in the discussion
8 in this section it's minimal. So it's possible that
9 some conclusions are implicit. But as you say, this
10 section is mainly intended to present the maps and
11 the data.

12 Q Dr. Duchin, we've been going about an
13 hour and a half, and this is probably a good break
14 point before to go to Section 8, if that works for
15 you.

16 A It works for me.

17 MR. TYSON: We can go off the record.

18 THE VIDEOGRAPHER: We're going off the
19 record at 4:43.

20 (Recess.)

21 THE VIDEOGRAPHER: We are going on the
22 record at 4:54.

23 MR. TYSON: Thank you, Scott. And
24 Carla, you were right. I forgot our read-on
25 period there.

1 Q (By Mr. Tyson) All right. So we're going
2 to move to Section 8, and I think this might be a
3 record for the fastest section for us to cover
4 because -- I just want to make sure I'm correct that
5 this section of your report shows the population
6 percentages and the difference on the Alt plan
7 between majority BHVAP districts and majority BHCVAP
8 districts; is that right?

9 A That's exactly right.

10 Q And so for the entirety of section 8
11 you're not offering any opinions. You're just
12 presenting the data; correct?

13 A Correct, to the extent that any opinions
14 are implicit, it's that certain districts remain
15 majority districts by CVAP.

16 Q We can move to Section 9 on Page 46.
17 All right. So in Section 9 we're now shifting from
18 the Gingles 1 map into kind of a different goal of
19 the Alt 3 map. Is that fair to say?

20 A Yes.

21 Q And so the Alt 3 maps that we'll be
22 looking at in section 9 related to -- well, would it
23 be correct to say they relate to maximizing
24 effectiveness or increasing effectiveness?

25 A Well, certainly not maximizing. One

1 could also do that. But that's not what I've done
2 here. They do have increases in effectiveness, but
3 the goal here is to illustrate that it's readily
4 possible in Georgia to achieve effectiveness without
5 majority minority population status.

6 Q So when you call these effectiveness
7 oriented plans, what does the oriented mean in that
8 title?

9 A Well, that means that under Gingles, my
10 understanding of my assignment and of the current
11 state of the law is that you have to get to 50
12 percent in order to have a qualifying plan.

13 And this shows what might happen if you
14 considered traditional principles and you considered
15 effectiveness as I've constructed here, but you
16 release that regard for the 50 percent line.

17 Q And so in the first paragraph you say
18 that you increased the number of majority districts
19 for the coalition of black and Latino Georgians
20 while simultaneously ensuring that traditional
21 districting principles are highly respected. What
22 does it mean to highly respect traditional
23 redistricting principles?

24 A It means to take them very seriously as
25 goals.

1 Q And does that refer to the metrics that
2 you've discussed in Section 6 in terms of respecting
3 those traditional districting principles?

4 A I would say it's reflected in the
5 metrics.

6 Q Are there other traditional districting
7 principles that you're highly respecting in the
8 creation of these Alt 3 plans that are not reflected
9 in metrics?

10 A Well, you know, as we can see, for
11 instance, in the deposition transcript of Director
12 Wright, the state didn't use any particular
13 compactness metric but used an overall holistic
14 assessment of district shape.

15 And so that's an example of a
16 consideration where you look at the districts and
17 ask if they look pleasing to the eye that I think is
18 a legitimate way to think about compactness a well
19 that isn't based on a metric. that's just an
20 example.

21 Q Are there any other metrics -- I'm
22 sorry. Are there any other metrics that you use --
23 I'm sorry. Are there any other traditional
24 redistricting principles that you used in the
25 reaction of the Alt 3 plans that cannot be measured

1 in metrics besides kind of the eyeball compactness
2 discussion?

3 A I would say that it's all the same
4 considerations as in the previous sections. So
5 referring back to what we discussed before, most of
6 those things are metrizable except for anything
7 holistic to do with compactness or communities of
8 interest.

9 Q And you reference in the next paragraph
10 that the existence of crossover support for black
11 and Latino candidates of choice, Asian American,
12 white and other voters is a certainty.

13 And I'm assuming that's based on the
14 fact that black preferred and Latino preferred
15 candidates can win statewide in a state where
16 they're not the majority, right?

17 A That's one demonstration. And another
18 is precisely what's to follow, which is showing a
19 large number of districts that have -- that are
20 labeled effective in my framework while having far
21 from a majority.

22 And that demonstrates the presence of
23 crossover support, so-called crossover. I mean,
24 it's a term that is frequently used. But doesn't --
25 as usual with many of these terms, doesn't have a

1 very precise meaning.

2 Q And general collection crossover support
3 for black and Latino candidates of choice is Asian
4 American, Want white and other voters voting for
5 Democratic candidates, at least in Georgia in 2023?

6 A Well, remember that the analysis
7 includes primaries. So --

8 Q Right. And I was asking specifically
9 for the crossover support reference here in the
10 general election. That crossover support is
11 supporting Democrats; right?

12 A Well, in the general election, yes. In
13 the primaries it means showing up in the first place
14 and then also aligning with the preferences of black
15 and Latino voters.

16 Q I wanted to ask you. At the last
17 sentence in that paragraph before we get to 9.1.
18 You say in the enacted plan the state has not just
19 avoided majority districts but has even
20 conspicuously limited the number of districts
21 providing effective opportunity to elect well below
22 the level that is easily attainable from a race
23 neutral mapping process.

24 So how are you distinguishing here
25 partisanship and race in the mapping process?

1 A Well, I don't think that sentence refers
2 to partisanship at all. It just says if you were to
3 undertake -- let's hypothesize a race neutral and
4 party neutral mapping process. Then you might
5 expect more opportunity.

6 This might be a good time to note even
7 though we're discussing my initial report, that
8 that's a theme that I come back to in the rebuttal
9 report where the state's expert, John Morgan, drew
10 what he described as a neutral plan. And even his
11 neutral plan has more effective districts than the
12 state's.

13 So I would call that conspicuous
14 limitation of the number.

15 Now, as you have kind of indicated with
16 the question, that can be in the service of partisan
17 goals but the effect is to reduce the number of
18 opportunity districts below what a blind process
19 might have found.

20 Q And the usage of the term the state has
21 not just avoided, has conspicuously limited sounds
22 like kind of intent language to me. You're not
23 saying that this was an intentional decision by the
24 map drawers to engage in this kind of process of
25 limiting opportunities to elect districts, right?

1 A Well, you know, as we discussed earlier,
2 that's probably a conclusion for the courts. But I
3 do find this to be suggestive of intent.

4 Q When you say suggestive of intent, it
5 means that -- well, what do you mean by suggestive
6 of intent?

7 A Well, I mean that as always I try to
8 carefully describe my role as one of providing
9 evidence to make a conclusion from. And I think
10 this evidence supports a finding of intent.

11 Q But you're not saying that it was
12 intentional conduct. You're just saying it
13 supports -- the data support a finding of intent?

14 A This is just my attempt to -- add a kind
15 of necessarily humility about the -- what my role is
16 in a case like this. So I provide evidence. I can
17 suggest that I find the evidence suggestive. But
18 ultimately that's a conclusion for the court to
19 draw.

20 Q Let's look next to the section 9.1 which
21 talks about Congress. And you say that it's
22 extremely to improve on the limited number of
23 effective districts, and to do this involves
24 relieving the packing and cracking from the enacted
25 plan.

1 So can you explain to me just what
2 figure 16 chose and how figure 16 demonstrates
3 relieving packing and cracking from the enacted
4 plan?

5 A Sure. You bet. So this is -- again, as
6 we saw earlier, this is what's called a Choropleth.
7 But now instead of the units being state precincts,
8 the units are Congressional districts themselves.

9 So we are seeing the different districts
10 and the shading is the coalition's share of -- this
11 is probably VAP, although I wish I had specified. I
12 think this is probably VAP rather than CVAP in these
13 figures.

14 So what I do I mean by relieving the
15 packing and cracking, here again, this -- this kind
16 of calls us back to the earlier conversation about
17 district 3 as so-called firewall.

18 So you see in the benchmark plan, the
19 enacted plan and the Duncan-Kennedy draft plan, in
20 all three of those you see that district 3 has a
21 lighter shade, indicating lower coalition share of
22 voting age population.

23 And then you have intense purples in the
24 metro Atlanta area and a pretty strong purple down
25 there in the southwest.

1 By contrast -- that's the packing and
2 cracking. The visual correlate is when you see the
3 sort of deep colors next to the light colors
4 informally. Again, any analysis of this kind is a
5 holistic collection of many parts, and a visual like
6 this is only intended to be corroborative of other
7 kinds of analysis.

8 But I still think this figure really
9 helps us understand what's going on. As well you
10 can see in my alternative plan at the lower left, is
11 that some of that population has been distributed in
12 ways that don't create such concentration in the
13 Atlanta area and that allow for District 3 to be
14 reconfigured with significantly more coalition share
15 in a way that in fact turns out to correspond to
16 effective opportunity.

17 Q Let's go next to the Alt 3 plans for the
18 legislature. So we have, I guess, our various
19 different modules. And we're starting with the SD
20 Atlanta module for Alternative 3, right?

21 A Right. Correct.

22 Q And so in turning to the next page to
23 Table 27, again we have a district that's
24 sitting at, you know, 76.8 percent on its black
25 voting age population, District 34. But that's in

1 your mind not a packed districted because you were
2 able to draw more effective districts in this
3 particular module since we're now in a non Gingles
4 context?

5 A You could call it packed if by that you
6 mean that 76.8 percent BVAP or 88 percent BHVAP
7 isn't necessary to achieve effectiveness in that part
8 of the state. But certainly not intentionally
9 packed. The point of this section is to show that
10 if you turn off all use of race, you can still get
11 to lots of effective districts in ways that are very
12 TDP respecting, right?

13 So there's -- you know, whereas in the
14 Gingles context you have this delicate tight rope of
15 50 percent plus 1, but not too much use race. Here
16 there really is no particular consideration at all
17 for racial demographics in the drawing of the
18 districts, just effectiveness and the other TDPs.

19 Q And so when you were drawing these maps
20 without these racial considerations and looking at
21 effectiveness did you display political data or
22 effectiveness scores on the maps as you drew the
23 districts?

24 A So the only consideration of political
25 data is in the building of the effectiveness score

1 and nothing beyond that. And, yes, these are
2 definitely -- they're called effective disoriented,
3 so definitely they're like -- they place a high
4 priority on the creation of effective districts.
5 Again, that's the only way political data is used,
6 and demographic data isn't used at all.

7 Q And I just want to make sure I
8 understand. Like what are you looking at when
9 you're drawing the Alt 3 maps? Like did you have
10 visible effectiveness scores for certain areas so
11 you could know to take that in or out?

12 How did you make the call as to where to
13 put the lines?

14 A Exactly the same as before. Some
15 exploratory runs that show me what's possible so I
16 guess a sense of how many effective districts might
17 occur just by line scrambling.

18 And then from looking at some
19 interesting examples in terms of TDPs that come out
20 of that process. Then making some hand decisions
21 and executing them for the hand drawing phase.

22 Q Okay. So you're algorithm that you
23 would -- you would configure it to work in a
24 particular district and to draw more effective
25 districts on the various iterations that you would

1 review before you hand draw; is that right?

2 A Right. And we can -- we can, and I
3 suppose we will talk more about this as we go -- as
4 we get to the rebuttal report. But these
5 exploratory algorithms they're never assigning
6 people on the basis of a score.

7 But they are making decisions about
8 whether to accept proposed changed that are
9 probabilistic where if a score is driven up, you're
10 more likely to the change.

11 Q And so looking at the SD Gwinnett on
12 Page 49, again we have a district that's, you know,
13 over 80 percent BVAP but this is also a map that has
14 effective districts in this region; is that right?

15 A That's right. It seems to me, if I'm
16 counting right, they have two more effective
17 districts but whereas the enacted plan never goes
18 above -- it looks like 66 percent BVAP. I have a
19 district that gets to 84.8. And that's because the
20 pattern of where people live made that happen while
21 I was paying no attention to do demographic levels.

22 Q And going over to the southwest Senate
23 districts, this is an area where the number of
24 majority black districts stayed the same, but you
25 added a -- an additional coalition district that's

1 already got an effective district. We aren't
2 looking at race in that additional --

3 A Exactly.

4 Q -- effective district; is that right?

5 A That's right. Exactly right.

6 Q And for the East Black Belt area --

7 A I'm sorry. If I can -- if you don't
8 mind, just add something quickly before we move on?

9 Q Certainly. Yes.

10 A This is great sample where the district
11 is -- District 11 in my alternative effective map 3
12 is aligned in four out of four primaries, but only
13 six out of eight general elections.

14 And that's something that just doesn't
15 occur in -- very much in the enacted plans
16 is something that has sometimes preferred the
17 Democrat and sometimes preferred the Republican. So
18 these aren't Democratic maximization maps by any
19 stretch. They just need to be aligned with that
20 candidate of choice at least 5 out of 8 times, and
21 here's an example.

22 Q And on that District 11, if a district
23 that starts in Columbus and runs all the way down to
24 the Florida border are there particular geographic
25 or community considerations you're taking into

1 account or is this really just focused on
2 effectiveness?

3 A This -- this section shows a focus on
4 effectiveness.

5 Q So you can't identify any particular
6 geographic or community reasons to link that part of
7 Columbus with this part of south Georgia?

8 A Well, no.

9 Q -- in the effectiveness?

10 A That's right. And once again, I'm not
11 suggesting that some -- this particular
12 configuration is in any way required. I'm showing
13 what might happen if you were drawing with an eye to
14 effectiveness and the TDPs.

15 Q I'm looking over to the Augusta area.
16 It looks like from this that in the process of
17 adding the effective districts there's not a single
18 district that's below -- above 50 percent on either
19 BVAP or BHVAP on this east Black Belt Alt 3 map,
20 right?

21 A Right. That's -- that's quite notable
22 here. So while no districts get to 50, four of the
23 districts are nonetheless effective, labeled
24 effective.

25 Q And looking over to SD Southeast gets us

1 to the coastal area. And, again, I think I know the
2 answer given our discussion, but there's no
3 particular reason for dividing Chatham County in
4 half the way you have. It's really just driven by
5 what could make 1 and 2 both effective districts;
6 right?

7 A Well, I mean, I do try to avoid county
8 splits. So the claim here isn't effectiveness
9 trumps the TDPs. Is that's I'm trying to harmonize
10 effectiveness with the TDPs. But as to why some
11 particular county is split and not some other,
12 indeed there's -- you shouldn't draw from that any
13 kind of necessary inference about my community of
14 interest reason.

15 Q And looking over at Figure 22, this is
16 one I wanted to ask about because this is one of the
17 only ones I think I saw where you had effectiveness
18 in the primary but not effectiveness in the general
19 in districts 32 as it's configured.

20 So you say your goal here -- or that
21 this area increases effectiveness by creating a
22 competitive SD 32, it is well aligned with black and
23 Latino preference in primary elections. Can you
24 explain that a little more for me?

25 A Sure. And I'm not quite sure why the

1 numbers are aligned funny. That I can't answer.
2 But I can tell you that the -- it's a little subtle.
3 But the coloring of the cells is a slightly
4 different shade from what it was in the others.

5 So it's sort of a sea green if you will.
6 I was running out of colors, I think, by this point.
7 But what that means is that this isn't technically
8 an effective district by my definition. So
9 technically I need three primaries and five
10 generals. And I'm not offering that here.

11 But instead it's just what you read.
12 It's well aligned in primaries, three out of four,
13 and competitive in general. It's 3 out of 8.

14 And so that's a -- that's a district
15 that I think if a candidate of choice for Black and
16 Latino voters were to run a strong campaign, I think
17 they've have a chance. But it doesn't meet my
18 technical definition of effectiveness.

19 Q And so this isn't a situation where
20 you're saying like, for example, Senate district 32
21 on Alt 3 is required by the constitution or the
22 voting right acts. You're just giving an example of
23 possibly or what this could become an effective
24 district under your definition over time?

25 A Right. I think nowhere in this report

1 would I draw any district that I claim this specific
2 district is required. These are really all
3 demonstrations of different kinds.

4 And in this section the -- the function
5 of these is at least twofold. One is it's set up to
6 talk about racial gerrymandering and other
7 constitutional concerns in the following section,
8 which I'm sure we'll get to shortly.

9 But it plays another role as well which
10 is to sort of highlight that tightrope walk I
11 described for Gingles maps where you need to get to
12 50 percent without letting race predominate.

13 And so these shows that if instead of 50
14 percent you were thinking about effective
15 opportunity, that that might not require the 50
16 percent in some parts of the state. There could be
17 other parts of the state where you absolutely do
18 need 50 percent to have effective opportunity.

19 But what I find is that all -- in many
20 regions you can find opportunity at well below to 50
21 percent line.

22 Q Let's click our way through the state
23 House then, plan 3. So looking at the Alt 3 for
24 metro Atlanta area.

25 A Yes.

1 Q We again have a collection of four
2 districts as I counted them of 80 percent BVAP in
3 the process of getting to the increase in effective
4 districts. And again, that wasn't something that
5 you looked at because you weren't looking at racial
6 issues while drawing, right?

7 A I was not.

8 Q And in the HD Cobb area, we have a 93.1
9 percent BVAP district in Districts 58. And again,
10 no particular reason for that configuration beyond
11 that's what happened when you figured these other
12 effective districts.

13 A Right. That would be the story
14 throughout that you can see some very high numbers
15 here as a function of the human geography that says
16 especially black but also to a lesser extent Latino
17 people live residentially in some parts of the state
18 in area that are extremely heavily concentrated with
19 minority residents.

20 It's possible to reduce those numbers.
21 But if you're not looking at race, you might tend to
22 see really high numbers like these.

23 Q And you also have one of the -- one of
24 the changes I noted on this chart, too, is in
25 District 43. There's a decrease in the number of

1 generals that are successfully for the minority
2 preferred candidate from 8 to 5 in District 43. But
3 still because it met the definition of effectiveness
4 under your method you counted that as an effective
5 district, right?

6 A That's absolutely right. And not a
7 great indication that we're not sort of -- aiming
8 for Democratic performance here but for opportunity
9 under this constructed definition.

10 Q So looking at DeKalb on the next page, I
11 guess the same answers in terms of high BVAP
12 percentages and nothing difficult in this region
13 versus any of the others; right?

14 A Identical answers.

15 Q And for particular configurations,
16 again, like connecting areas of Milton with areas of
17 Roswell or parts like that in north Fulton, that
18 wasn't a consideration you were looking at in
19 drawing these plans, right?

20 A Right. I mean, with the knowledge --
21 I'll will just sort of reiterate. With the
22 knowledge that I gained throughout this process
23 about areas where people were talking about shared
24 community concerns, that probably informs all the
25 map drawing in the back of my mind.

1 But because it's not visible on a map,
2 those considerations aren't always going to be front
3 of mind in the mapping process.

4 Q And so then for Gwinnett, for Southwest
5 for East Black Belt, the process that you followed
6 was the same for all of those regions, including fro
7 Southeast region, right?

8 A Yes, quite the same.

9 Q That makes that part of the process a
10 little bit shorter then. So in terms of Section 9
11 of the report, are you offering of any opinions in
12 this section of the report or just presenting the
13 plans that you drew in light of what you described
14 at the beginning of the section?

15 A Well, there's -- there's really very
16 minimal text at all in this section. So to the
17 extent that I intend conclusions -- they're
18 conclusions about possibility, right. So the
19 existence of these demonstrative plans shows that
20 certain things are possible. And that's all that I
21 want -- wanted to conclude from that section.

22 Q Let's move into our racial
23 gerrymandering section. And so your method of
24 looking at racial gerrymander as I understand it in
25 this section is through core retention or conversely

1 population displacement.

2 Is that the methodology you used to look
3 at racial gerrymandering consideration?

4 A So 10.1 looks at retention displacement
5 and so called disruption. 10.2 looks at splitting.
6 So those are the two major methods I propose. 10.3
7 looks at community narratives. So those are the
8 elements I have her in Section 10.

9 Q And so in terms of -- you titled this
10 section racial gerrymandering. I think as we talked
11 very specifically so far, you're not saying that
12 Congress, House and Senate plans are racial
13 gerrymanderers, right?

14 A I'm not sure that I'd know how to
15 designate something a racial gerrymander full stop.
16 Instead, I understand racial gerrymandering to be a
17 legal terms of art referring to constitutional
18 provisions that have been interpreted over the years
19 to tell us race shouldn't predominate. So an
20 equally apt title for this section could be the
21 predominance of race over other criteria.

22 Q And you conclude that races predominates
23 over other criteria as least as to retention
24 displacement, district disruption, splitting of
25 geographic units and community narratives; is that

1 right?

2 A Well, it's a -- it's a selection of
3 evidence and lack of evidence. So in 10.1 I'm going
4 to look at the patterns to do with where
5 displacement's occurring, which districts are
6 disrupted and so no. And I'm going to compare the
7 choices to TDPs and I will repeatedly find that they
8 lack a TDP justification.

9 In 10.2 I'll look at splits and I'll
10 consider how many there are and whether they have a
11 kind of racially distinct character that fits
12 patterns of packing and cracking.

13 And 10.3 that's more about a lack of
14 evidence. 10.3 I'll review community narratives and
15 sort of report that I cannot find a community of
16 interest justification for some of the choices that
17 were made.

18 Q And in this section I didn't find much
19 of any discussion of possible political motivations
20 for any of those factors. Did you consider politics
21 as an explanation for retention displacement,
22 district disruption, or splitting of geographic
23 units?

24 A Well, just as a baseline matter
25 throughout the report, I absolutely acknowledge that

1 partisan considerations can be in play. My question
2 was just was raced used to achieve them or is there
3 evidence that racial considerations were also in
4 play.

5 Q And so -- but specifically in this
6 section of your report, you're not analyzing any
7 political data in comparison to racial data for
8 these various geographic changes; right?

9 A I think in this section itself you won't
10 see that. But the section is supported by several
11 appendix tables. And, for example -- let me just
12 flip ahead and find them.

13 So Section C supports the split of
14 subsection of 10, and there you will see political
15 data compared to demographic data.

16 Q So in terms of finding a complete
17 analysis in Section 10, you have to include all of
18 Appendix C to see the complete analysis of that. is
19 that fair to say?

20 A I guess the way I would phrase it is
21 that I think Section -- Appendix C can be helpful.
22 But I've tried in section -- in the body of Section
23 10 to present what I think is a collection of useful
24 facts and observations.

25 Q Let's start with District 6. And you

1 note that District 6 was remarkably close to the
2 ideal size before redistricting began. Right?

3 A I say nearly at the ideal size, correct.

4 Q And you're not saying that the only
5 change that should have been made to District was to
6 add in the people that were missing or take out the
7 ones that were there and make no other changes to
8 the district; right?

9 A Well, if you were really -- this is --
10 this is where you can -- this is an exact example of
11 the kind of analysis that lets you gauge priorities.
12 And so if core retention were a top, top, top
13 priority, then maybe, yes, you would see only the
14 absolute minimum number of changes made.

15 And so this tells us something that we
16 already knew, which is that core retention wasn't
17 the very top priority. No one has claimed to my
18 knowledge that it was.

19 But I mean that just to illustrate the
20 method. By looking at the changes that are made,
21 you could infer at least kind of a coarse priority
22 order.

23 Q Let me mark as Exhibit 3, drop into the
24 share file. And I can share it on my screen if it
25 would be quicker. Actually, it might be a little

1 bit easier.

2 And I'll represent to you that this is
3 -- I can't share my screen, so if you could open
4 Exhibit 3. And I'll represent to you this is a
5 document downloaded from the Legislative and
6 Congressional and Reapportionment Office, Ms.
7 Wright's office, involving total population
8 deviations when the 2020 census was applied to the
9 prior -- the benchmark Congressional plan.

10 (Court reporter instruction.)

11 A Also, I have it on my screen now.

12 Q Okay. So in looking at this chart,
13 you'd agree that Districts 14 was under by more than
14 36,000 people from what it needed to be the ideal
15 population size; right?

16 A Well, okay. Hang on a second. Let me
17 just --

18 Q And we just -- I'm sorry.

19 A Well, let me just review the chart for a
20 second so I have an idea of what I'm looking at.

21 Q Certainly.

22 A Okay. So let me tell you what I think
23 I'm seeing, just -- I just want to make sure we're
24 on the same page.

25 Q Uh-hmm.

1 A So the 765,136 is the ideal value after
2 the 2020 census, and this is showing the 2020 total
3 population of each and how different it is from that
4 ideal.

5 Now, this is showing District 6 to be
6 only 700 people off from the ideal. So I'm totally
7 sure that I was getting the exact same numbers,
8 which I should double check if we -- if we're going
9 to care about the precise numbers I double check
10 this against mine.

11 But just accepting as presented these
12 numbers here, I'm now happy to answer questions
13 about the chart.

14 Q Okay. And I just want to just check off
15 a couple of pieces on the chart.

16 A Yes.

17 Q And so this chart, Exhibit 3, shows that
18 Congressional District is underpopulated by over
19 36,000 people from the idea size for the 2020
20 census, right?

21 A Yes, that is what the chart seems to
22 say, if I'm understanding.

23 Q And District 7 is over populated by more
24 than 94,000 people from the ideal district size
25 according to this chart; right?

1 A That's right. It's the most
2 overpopulated on this chart.

3 Q And 14 -- well, and District 11 as well
4 was also overpopulated by more than 37,000 people,
5 right?

6 A Okay.

7 Q And those are districts that all -- at
8 least in part touch District 6, is that right?

9 A Let's see. What was the list again?
10 14, 11 -- I just want to make sure I'm --

11 Q And 7.

12 A Yes, that sounds right. I'm trying to
13 -- I'll just flip back to my map.

14 14, yes. So that doesn't touch 6,
15 right?

16 Q 14 does not touch 6. It touches 6, yes.
17 There's -- I'm sorry. 14 is on your chart here, but
18 it doesn't touch District 6, you're correct.

19 A Right. I mean, it does in my
20 alternative map, but not in the enacted plan, the
21 benchmark plan, or the Duncan-Kennedy plan.

22 Q And so you'd expect that there would be
23 changes to all the districts. You're just pointing
24 out -- when you're pointing out this closeness of
25 District 6 to the ideal district size, that's not

1 looking at anything else in context, right?

2 A That's right. It's merely saying that
3 if -- that one could conclude from that merely that
4 if core retention were the top of mind
5 consideration, only very small changes would have to
6 be made. But of course we all fully recognize that
7 there are many other considerations in play.

8 Q And on District -- I'm sorry. On Page
9 68 you're discussing this -- back to Exhibit 1.
10 You're discussing the transfers that took place
11 here.

12 A Once again, what page are we on?

13 Q I'm sorry. Back on Exhibit 1, your main
14 report, Page 68.

15 A Yes. Okay. I'm there.

16 Q Okay. And so you note that there were
17 swaps or transfers of more urban, more black and
18 Hispanic neighborhood out of CD 6 while bringing in
19 whiter suburban areas; right?

20 A Correct.

21 Q And you say at the end of that
22 paragraph, "This transition looks to be plainly
23 dilutive of voting power."

24 What about the transition is plainly
25 dilutive of voting power?

1 A The fact that the district has become
2 out of reach for the preferred candidates of black
3 and Latino voters through racially distinctive swaps
4 of population.

5 Q And so the dilution of voting power
6 you're referring is of black and Latino voters
7 because they were previously able to elect a
8 candidate of choice in District 6 and now are unable
9 to do so?

10 A That's right. Also, though, let's -- if
11 I could read the full sentence. There's a little
12 bit more here. So it says, "Since CD 6 --"

13 Q Go ahead.

14 A Thank you. "Since CD 6 was a performing
15 district for the coalition of black and Latino
16 voters before its transformation and none of the
17 transfers improves representational prospects in
18 non-performing districts, those things taken
19 together, that's what tells me that this transition
20 looks to be plainly dilutive of voting power."

21 So just to be perfectly clear, I'm
22 taking one more thing into account besides the fact
23 that racially distinctive population swaps happened
24 and a performing district was put out of reach.
25 Those are important facts.

1 But equally because nothing changes in a
2 vacuum, if you change a district you change its
3 neighbors. And I also considered whether any of
4 those swaps improved the prospects in the
5 neighboring districts, and they do not.

6 So taken together, that's what supports
7 the conclusion that this transition looks to be
8 plainly dilutive.

9 Q And how do you rule out that the
10 transition could be plainly political in terms of
11 the goals of the map drawers?

12 A I don't need to rule it out to conclude
13 that it's dilutive, right? It could be both
14 political and dilutive.

15 Q Moving next into the changes made in CD
16 14 into Cobb County.

17 A Yes.

18 Q And you say that -- I'm going to point
19 here. In that -- in the next paragraph after what
20 we were just looking at, you say Figure 31 makes it
21 clear that the movement of these areas of Cobb into
22 the district can't be justified in terms of
23 compactness or respect for urban/rural communities
24 of interest."

25 How does Figure 31 illustrate that to be

1 the case?

2 A Okay. So what we can see in the figure
3 -- well, the figure's doing a lot of work, so let me
4 unpack it a little bit. So this is another dot
5 density plot where every dot represents one person
6 according to the census. And the black outlines
7 show you the district.

8 Now, we're not seeing county lines here,
9 only district lines. We'd have to cross reference
10 with other plots to see the counties.

11 So one thing the figure shows us, is it
12 allows us to assess compactness just by looking at
13 the shapes of the districts. And so you can see
14 that the part of 14 that we're talking about, which
15 is that tip heading towards Atlanta into Cobb does
16 not improve compactment along any of the compactness
17 metrics that are available to us or by the eyeball
18 test.

19 And so I would be comfortable saying
20 that it doesn't have a compactness justification.

21 To the second part, the urban rural? So
22 the way that you can see that on a dot density plot
23 is the literal density of the points. So population
24 density shows up as more points while rural or less
25 populated areas show up with fewer points per, you

1 know, square inch, say.

2 And so what we can see is that most of
3 District 14 is quite rural, is -- has quite low
4 population density. But it's precisely that tip
5 that we were just discussing where you start to see
6 much thicker and incidentally much greener dots.
7 And that shows you that it's picking up denser, more
8 urban and blacker population right there at the tip.

9 Q In terms of assessing urban versus a
10 rural population, are you primarily relying on
11 density for that? You're not saying that this part
12 of south Cobb is an urban area?

13 A Well, there are a few ways that you can
14 within a demographics framework assess urban rural.
15 One is density, definitely. Another is the census
16 actually provides an official designation of urban
17 and rural at the block group level. And so you can
18 refer to that, if you want.

19 What I'm relying on here is mainly
20 density.

21 Q And just to be clear, you didn't refer
22 to the census designation of these blocks, you
23 relied on density; right?

24 A That's right. And, again, it wouldn't
25 be blocks in the census. I think it would be block

1 groups.

2 Q I'm sorry. Yes. That would make sense,
3 it would be block groups versus blocks as well.

4 A Right. I guess I'll one thing. Another
5 reason I'm describing tip as a more urban area is
6 precisely the community testimony. So reading
7 through that and hearing the concerns of people
8 there, they use the word urban but also they
9 describe concerns that are common to urban area.

10 So I think not only is there higher
11 population density but also the narrative
12 description of residents is consonant with what we
13 would call urban areas of the country.

14 Q Let me ask you about the last paragraph
15 or the last sentence in that section. You said,
16 "Thus, the shift in the final enacted plan,
17 submerging a dense majority black segment of Cobb in
18 CD 14 was not necessary" --

19 Can you still hear me, Dr. Duchin?

20 A Yes. Thank you.

21 Q Okay. Sorry.

22 -- "was not necessary to balance
23 population while keeping Pickens intact."

24 And what I was going to ask you is what
25 do you mean by not necessary? Is it that it could

1 have been draw another way or is there some level of
2 necessity you're referring to here?

3 A Oh, by necessary I mean the only
4 possibility, right? And so, saying something's not
5 necessary means just that there were other
6 possibilities.

7 And here there's a particularly powerful
8 demonstration, which is the Duncan-Kennedy plan
9 which is made, as I understand it, by legislators as
10 an officially-released draft plan in a process of
11 considering Congressional alternatives.

12 And it's that plan itself which keeps
13 Pickens whole and balances population that shows us
14 that it wasn't necessary to do it as it was
15 ultimately enacted.

16 Q And in this section you're pointing out
17 features of the designs of District 6 and 14 but
18 you're not offering a specific opinion about why the
19 legislature configured them with the boundaries they
20 did, right?

21 A Well, no, I -- I think here, as always,
22 I can give evidence from which we might infer
23 priorities. But I can't be certain.

24 Q Moving to the state Senate, you
25 reference that District 4 and Districts 14 have zero

1 overlap with their previous population. Are you
2 aware now from Director Wright that that's because
3 of the collapse of those districts in south Georgia
4 to move to the north Georgia?

5 A Well, I definitely understand that it's
6 characterized that way and I have no reason to
7 dispute it. But here I'm just describing the bare
8 fact of zero overlap.

9 Q Okay. And then you give some examples
10 of Senate District 14, Senate District 56, Senate
11 District 7, the differences references there. And
12 am I correct that essentially what you're pointing
13 out primarily in this section is the racially
14 imbalanced shift shifting heavier minority
15 population out of Republican districts and shifting
16 whiter or less minority population percentage -- of
17 the percentage matter into the districts?

18 A Yes, I would say that's the focus here.
19 I also tried to describe to the extent that I can
20 who the incumbent was and some context for why that
21 person might have been, you know, of particular
22 interest to groups of plaintiffs to black and Latino
23 voters. But, yes, you're right. The main
24 quantitative tool here is to look at the
25 demographics of the outbound shifts and the inbound

1 shifts.

2 Q And how did you go about doing the --
3 garnering the information about, for example,
4 Senator, now Representative Au or Senator Islam?

5 A Let's see. So I think I -- one thing
6 that I had encountered is a list of who -- I'm
7 actually not sure how to pronounce it. Galeo or
8 Galeo had -- had endorsed in the elections. So I
9 got -- you know, I really used sort of every means
10 at my disposal to try to figure out who were the
11 candidates aligned with the grass roots organization
12 representing black and Latino voters.

13 So the -- this endorsement is a matter
14 of public record. Other than that, I mean, I'm sure
15 I looked at PDM many times to try to figure out what
16 I could about the reelection records. But I didn't
17 use any other non-publicly available resources.

18 Q And do you consider racially imbalanced
19 population transfers in and out of a district as
20 evidence of racial predominance in the consideration
21 of a district map?

22 A I would call it suggestive evidence, not
23 conclusive evidence, but suggestive evidence.

24 Q Do you think a racially imbalanced
25 population shift is suggestive of a racial goal of a

1 map drawer?

2 A Well, I would say consistent with. It
3 really depends. This the kind of assessment for
4 which you want to try to use many different kinds of
5 information together.

6 So there's no -- unlike, say, my
7 effectiveness determination, which I described at
8 length and which became just a yes or no, effective
9 or not effective label. There is no official label
10 in play here. It's -- it's just a matter of
11 assembling as much evidence as I can. That's how I
12 think about it.

13 Q And in this report you assembled as much
14 evidence as you could about the racial
15 considerations in the drawing of these maps; is that
16 right?

17 A I tried to be -- I tried to be
18 comprehensive. I mean, as you know, it's a big
19 state with a lot of districts, a lot of counties.
20 And so I'm sure if I had another few months I could
21 have maybe found some other quantitative approaches.

22 But this -- this reflects an effort to
23 be quite comprehensive in my analysis.

24 Q And so are you offering the opinion in
25 this section of your report that race predominated

1 in the creation of District 56, 48, and 17 -- and 7?
2 I'm sorry.

3 A You mean predominated over TDPs?

4 Q Yes.

5 A Am I offering that opinion? I don't
6 think there's a place where I say something like
7 that quite that way. But I do think I'm presenting
8 evidence that shows that decisions with a marked
9 racial character were made in ways that made
10 traditional principles worse.

11 And so, yes, I think it's reasonable to
12 conclude that race predominates -- that
13 race-inflected decision making predominated over
14 TDPs, yes.

15 Q And are you reaching that conclusion for
16 the Congressional Districts 14 and 6 as well?

17 A That racially-distinctive decisions
18 predominated over TDPs? Sure. I'm comfortable
19 saying that.

20 Q Even though you're making that statement
21 about Congressional District 6 and 14 and Senate 56,
22 48, 17, you still can't rule out a political goal
23 that just had a racial impact; right?

24 A But it's not just a political goal, the
25 racial impact. It's, as I've said a number of

1 times, it's a political goal achieved through racial
2 -- racially-distinctive decisions or the use of race
3 data or the operationalization of race.

4 So I would distinguish that somewhat
5 from mere unintended impacts. I see evidence of the
6 use of race to achieve partisan goals.

7 Q And part of the evidence of that is
8 noted in Appendix C of your report; right?

9 A I think Appendix C is included because
10 it supports that --

11 Well, it's not included because it
12 supports that. It's included because I've tried to
13 be as comprehensive as I can about all aspects of
14 the relevant data. But I do also think that it is
15 -- it fits with that general narrative and helps me
16 arrive at that conclusion.

17 Q If the examples you've given of racially
18 imbalanced population transfers also on Appendix C
19 showed politically imbalance population transfers,
20 you'd expect to see that, right?

21 A I'm sorry. Which part are you asking if
22 I would expect?

23 Q You would expect to see racial imbalance
24 -- racially imbalanced population transfers matching
25 with politically imbalanced population transfers;

1 right?

2 A Under which hypothesis? Sorry. Let me
3 try and answer that in the spirit I think you're
4 asking. If race was used to achieve partisan goals,
5 then we'd expect to see racially-distinctive
6 transfers and corresponding politically distinctive
7 transfers.

8 Now, we might see differences in racial
9 demographics that are greater than or about equal
10 to. I'm not saying anything in particular about the
11 relative magnitude. But I am saying that to arrive
12 at a conclusion like the one that I'm describing,
13 that race was used to achieve partisan goals, then
14 you'd expect in many places to see gaps in both.

15 Q And I guess what I'm trying to
16 understand is -- I understand the perspective of
17 race being used to achieve a partisan goal and you'd
18 see a partisan differential basically and a racial
19 differential.

20 If partisanship was being used to
21 achieve a partisan goal, wouldn't you also expect to
22 see both a partisan differential and a racial
23 differential in Georgia?

24 A Well, I think that's -- that's a
25 fundamental question. I address that more head on

1 in the rebuttal report, which I'm sure we'll come
2 to.

3 So in this -- you know, in the content
4 of the current report, you're correct that I haven't
5 directly addressed the question of whether partisan
6 differential can be achieved without concomitant
7 racial differential. But I do think I get to that
8 in the rebuttal report.

9 Q Okay. And for purposes of this, report,
10 you'd agree that that type of analysis is not here,
11 it's in your rebuttal report; right?

12 A Let me just give a moment's thought of
13 -- to whether there's anything in this initial
14 report that really speaks directly to that. I mean,
15 I guess the only thing I would say --

16 And this is worth saying is that the
17 split count or all does speak to that. So -- so let
18 me -- let me address that for a moment.

19 So there's county splits, and we've
20 talked about those on several occasions. We've
21 talked in passing about precinct splits.

22 But I think to your point that you were
23 just asking about, precinct splits are especially
24 important because precincts are the level at which
25 votes are reported. And so if you're splitting

1 precincts you cannot claim to be doing do, I think
2 -- as far as I'm aware, you cannot claim to be
3 confidently doing so on the basis of election
4 history.

5 Of course you can use the predictive
6 analytics to try to guess who voted how. But in my
7 understanding the primary tool that you have at your
8 disposal when you split precincts is demographics.
9 That's what's available to you when you split
10 precincts.

11 And so I find that the state has split
12 far, far more precincts than my alternative maps
13 have. And again, we're talking about state
14 precincts here, not the census VTDs.

15 And to me that is -- that is suggestive
16 of race, not party, as a kind of explanation.

17 Q So beyond the precinct splits we just
18 talked about and for purposes of this report, you
19 don't have further analysis to discuss splits of a
20 partisan nature having a racial impact that may be
21 unintended, right?

22 A That's right. The strongest evidence is
23 that of split precincts.

24 Q Well, let's move into the state House.
25 I wanted to ask you about -- I think this gets into

1 our discussion earlier about the nature of the
2 shifts that happened. And you say a startling 32
3 districts were not only moved or relabeled but
4 effectively dismantled.

5 Can you just explain what -- what you're
6 referring to there?

7 A Yes. And I believe I give a kind of
8 local working definition right there in the same
9 sentence, which is that fewer than 30,000 residents
10 assigned to any single district. So here the ideal
11 size is about 60,000 of the state House, it's
12 59,511. And so this is saying not only is it a
13 cosmetic relabeling that you might expect under
14 numbering rules, but in fact that constituency has
15 been broken up.

16 Q And the swingy category as you're using
17 the term there is defined as candidates from each
18 major party would have won 2 to 6 out of the 8
19 general contests in the dataset of probative
20 elections; is that right?

21 A Right. And again, that's just a local
22 definition for the purposes of this subsection. I'm
23 not trying to trademark the term in any broader
24 sense.

25 Q Noted. I totally understand that.

1 And so in looking at -- let me find --
2 on Page 71 in Figure 33 there's some references to
3 the changes in various districts that you have on
4 Table 40.

5 A Yes.

6 Q And you say that the images make it
7 clear that the shifts are not explained by
8 traditional districting principles like compactness
9 or respect for county lines. You see that, right?

10 A I'm looking for that.

11 Q That's the description for Figure 33 on
12 Page 71.

13 A Yes, I see that.

14 Q And you don't know if these changes were
15 the result of incumbent requests in those districts
16 to be redrawn that way, right?

17 A Oh, no. Certainly not. I would have no
18 way of knowing that.

19 Q And you don't know -- you didn't look at
20 the communities of interest that were kind of apart
21 from the public comments, so you're not aware of
22 specific communities of interest that might explain
23 the reconfiguration of these districts, right?

24 A My knowledge of communities of interest
25 really should be understood to be limited to what I

1 could learn from that record.

2 Q And so the same question as to the
3 Senate districts that we talked about. Are you
4 saying that the districts listed in Table 40 on Page
5 71 were drawn primarily based on race to the
6 detriment of traditional districting principles?

7 A Well, again, I -- I would probably stop
8 short of using a word like "primarily," but I would
9 say they were drawn in a quite racially-distinctive
10 way.

11 And I think what I mean for you to --
12 for readers to draw from these figures is we can see
13 they have more countries reversals than they used to
14 have, they're less compact looking than they used to
15 be.

16 And so I'm not seeing at least that
17 level any possible TP justification, although
18 certainly, as you say, there could be others that
19 aren't on the record.

20 Q And did you review precinct shapes as
21 part of your analysis of traditional districting
22 principles for these districts?

23 A I definitely do take that into account
24 where I can, yes.

25 Q And my question was specifically, did

1 you take that into account for the five districts in
2 Figure 33 when looking at their shapes?

3 A Well, I'm sure I looked at it. I can't
4 at this -- sitting here today, I can't recall
5 exactly how I took it into account. But I would say
6 that I highly aware of the constraints produced by
7 trying to preserve funny shaped precincts, sometimes
8 very large --

9 I should note. That hasn't come up yet.
10 But Georgia has an extraordinary number of very
11 large precincts. And so precinct splitting just
12 absolutely has to occur. And the question is which
13 and where and how much.

14 Q And we also have a number non-contiguous
15 precincts which is also a unique feature at the
16 election --

17 A That's actually -- that's actually quite
18 common.

19 Q Oh, really? I didn't realize that.

20 A Yeah. Rather frustratingly for people
21 like me.

22 Q All right. Well, on that note, let's
23 move to the splitting of geographical units. That
24 seems right for that.

25 So getting to this section, again you're

1 showing racial shifts basically of what was in
2 particular districts -- well, let me step back for a
3 second.

4 This is -- this section of the report is
5 discussing the splitting of counties where one
6 racial group is primarily in one portion of a county
7 and another racial group is primarily in another
8 portion of a county. Is that fair to say?

9 A Right. I guess I would say that what I
10 look at is which part of a county landed in
11 different districts. And I look to see what other
12 parts in different districts have -- have quite a
13 different racial makeup.

14 Q And so when you would look at these, did
15 you also look at the political makeup of the split,
16 for example, of Bibb County on Page 72?

17 A I did also look at that. And let's see.
18 I think you'll -- I think you'll find that in the
19 splitting appendix. Yes, you will. So that
20 splitting appendix we talked about before does
21 contain all that information for these county
22 splits.

23 I should actually quickly mention -- this
24 is a good point to mention. There are so many
25 precinct splits that I didn't try to include a full

1 table of all precinct splits in the report. But it's
2 in the -- my analysis of precinct splits in this
3 exact way was provided in the backup materials that I
4 handed over.

5 Q So it's not included in your report,
6 just the backup materials, right?

7 A Right. I think, for example, under
8 House splitting the table runs to 700 lines. So it
9 would have been hard to include it in the report in
10 a very readable way. But it definitely is available
11 to you in the backup materials.

12 Q So looking on Page 101, Appendix C.
13 This is the Bibb County that you call a race --
14 minutely racial conscious decision between District
15 2 and District 8.

16 You'd agree that the portion of District
17 2 from Bibb County that is -- I'm sorry. The
18 portion of Bibb County in District 2 went 71 percent
19 and a little bit more for President Biden and the
20 portion of Bibb County in District 8 went almost 54
21 percent for President Trump; right?

22 A Yes, that's -- I had to do the
23 subtraction on the fly there. But, yes, that's
24 right.

25 Q And so how did you rule out --

1 A Can I clarify, though --

2 Q Go ahead.

3 A I just wanted to clarify. When I was
4 talking about minutely race conscious, you don't see
5 that in this table. That's the figures that show
6 you where the line was drawn and how it compares to
7 the dot density.

8 That's what I'm referring to when I say
9 "minute." I mean decisions like microscopic
10 decisions about whether the lines turn to the left
11 or the right.

12 These are aggregate statistics that I
13 wouldn't call minute.

14 Q And so then let's look back at Figure
15 34.

16 A Sure.

17 Q Are any of the portions -- and that's
18 Page 72 if you need it.

19 A Thanks.

20 Q So you're saying minutely race conscious
21 decisions is the boundaries of -- between Districts
22 8 and Districts 2, not the people that are in each
23 one?

24 A Well, the boundaries control the people
25 that are in each one. But I'm saying that if you

1 follow that contour, I find it quite suggestive of a
2 racially -- racially conscious decision process for
3 sure.

4 Now, having said that, just to be clear,
5 yes, there are precincts here in the -- if you're
6 trying to keep precincts whole -- it's not like
7 you're drawing freehand, right? You have some
8 constraints.

9 But given the high level of precinct
10 splitting, I don't think that was regarded as a kind
11 of hard constraint. Precincts are certainly split
12 for various reasons in various places.

13 And here on balance you just see a whole
14 lot more green dots, for example, on one side of the
15 line than the other, and even some winding that
16 makes that quite pronounced.

17 Q Are any precincts split in Bibb County
18 this border between 8 and 2?

19 A We'd have to cross reference the
20 splitting table, and we could do that. But I -- you
21 know, as I said a moment ago, I acknowledge that
22 when you keep precincts whole that's a real
23 constraint on the shapes.

24 So that's completely acknowledged. But,
25 as I pointed out a moment ago, lots of precincts are

1 split. And if you're trying to kind of be even
2 handed in an area like this, you might choose to
3 split a precinct to reduce this heavy disparity in
4 racial demographics across the boundary.

5 And that hasn't been done here. So
6 whether by sorting which precinct goes where or by
7 deciding to split and not to split, that's the --
8 the sort of combined effect of those decisions is a
9 heavily race sorted boundary.

10 Q I guess what I'm trying to understand is
11 how you're concluding it's a heavily race sorted
12 boundary, race conscious decision making when it's
13 consistent with putting Republicans -- more
14 Republican population into a Republican district and
15 more Democratic population into a Democratic
16 district.

17 A Sure. I never deny the presence of
18 partisan motives. So that is -- I'll concede that
19 throughout, including there. And so again, the
20 question: Was race used to accomplish that? Or at
21 least that's one question you could ask. It's not
22 the only question you could ask, but it's a question
23 that was on my mind as I was analyzing this.

24 Q Well, and I'm not trying to -- I really
25 do want to understand the distinction here because

1 you're calling these race conscious decisions.

2 A Yes.

3 Q Why are you not calling them politically
4 conscious decisions? How are you distinguishing one
5 from the other on Figure 34 in the split in Bibb
6 County?

7 A Okay. So to be clear, I think -- I've
8 said this a few times, but I don't find those to be
9 mutually exclusive. It can be both a partisan
10 conscious and a race conscious decision. And in
11 fact, if the ultimate conclusion is that race was
12 used to achieve partisan goals, then you will find
13 them both co-occurring.

14 Q And so you'd agree that partisanship and
15 race, at least in terms of the splits in the
16 counties that you're discussing here are
17 co-occurring in each of these examples you've given?
18 We can look at the others, but ...

19 A Well, what I don't have in front of me
20 right now, although we can try to cross-reference if
21 it's helpful. I don't have at the precinct level
22 the race and the party makeup according to the
23 elections. I picked -- as you can see throughout
24 Appendix C, I chose the Biden election and one of
25 the Abrams elections as ones to present. But I have

1 no reason to believe that it would look very
2 different if you made a different choice of
3 elections.

4 So what I don't have in front of me
5 right now, and so I'm prepared to describe on the
6 fly, is whether each of these precincts fits the
7 pattern that race and party are kind of intertwined in
8 the way that we're describing.

9 But as a matter of generality, that's
10 certainly true in a lot of the state. Once we get
11 to the areas closer to Atlanta, it's the
12 conjoinment, as the political scientists call it, is
13 a little bit weaker. But see more, again, so-called
14 white cross-over voters.

15 But the -- generally speaking in the
16 less metropolitan areas, less urbans, the less dense
17 areas you'll see race and party tracking together as
18 a general --

19 Q And so you're not -- you're not denying
20 that there could be a completely partisan goal with
21 no race conscious decision making at all that could
22 lead to a split of a county that ends up having a
23 racial-looking split if the goal was political,
24 right?

25 A Well, anything is possible, and I do

1 mean that very sincerely. You can achieve things
2 that look really conspicuous must by chance. But
3 here I find that, you know, the indicia of racial
4 sorting are quite strong. And so generally that's
5 suggestive of the use of race at least as a proxy.

6 Q So are you offering the opinion in this
7 report, looking at Page 72, that race predominated
8 over other traditional districting principles in the
9 splits in the Congressional map of Cobb, Fayette,
10 Fulton, Douglas, Newton, Gwinnett, Muscogee and Bibb
11 Counties?

12 A Well, I made a slightly more qualified
13 determination here the way I wrote it, which is to
14 say that I see patterns consistent with a packing
15 and cracking strategy.

16 Q But you're not saying there was a
17 packing and cracking strategy. You're just saying
18 the data are consistent with that kind of strategy?

19 A Well, that's right. I -- I try not to
20 overstate the kinds of conclusions that can be drawn
21 from these kinds of methods.

22 Q In turning to the precinct split
23 analysis, which is our next section, you reference
24 the -- and so in looking at these -- and I saw
25 you've given seven precincts as examples of split

1 precincts. Did you do --

2 A That's right.

3 Q -- this kind of analysis for any other
4 precincts on the Congressional plan?

5 A Yes, and that's -- that's what I
6 referenced just a little bit ago as being contained
7 in full in the backup material. So you can see the
8 complete record of which precincts are split and the
9 stats for the splits.

10 Note that as I referenced before, these
11 won't -- we won't be able to look at race versus
12 party in these precinct splits. It's really race
13 only because you cannot break down party preference
14 based on cast votes below the precinct level.

15 Q And just -- and I understand you have
16 that in the backup materials. But just so we're
17 clear, in the written portion of your report, your
18 expert reporter, you've only discussed seven
19 precinct splits in the Congressional plan; right?

20 A I think that's correct. Let me just
21 tour through the section.

22 Yes, just these seven.

23 Q Okay. And do you know if Marietta 5A,
24 Marietta 6A, and Sewill Mill 03 are contiguous
25 precincts or have noncontiguous portions?

1 A Well, let's see. CD 6 and 11. I don't
2 -- let's see. They might be contained in the
3 figures in Appendix C.

4 Let me take a quick look. But
5 otherwise, from memory I wouldn't be able to say. I
6 don't think those are in the figures. So I can't
7 say from memory.

8 Q Okay. I didn't see them either, so
9 that's -- that's --

10 A Okay. We agree.

11 Q And in Table 42 you use kind of the same
12 language we just said. There's a showing of
13 significant racial disparity consistent with an
14 effort to diminish the electoral effectiveness of CD
15 6 for black voters.

16 You're not saying that was the effort.
17 You're just saying the evidence is consistent with
18 that kind of effort, right?

19 A That's right. I've made an effort to be
20 disciplined about the language.

21 Q When you reviewed -- the next page over
22 there's kind of a District CD 4 and 10 precinct
23 split with the boundaries.

24 A Yes.

25 Q Did you look to see if there were other

1 geographic features, like highways or other areas
2 along which those boundaries were split?

3 A That is something I generally do look
4 for. I can't tell you with confidence, you know, in
5 realtime whether I looked at that for these
6 particular splits. But that is generally something
7 I do consider.

8 Q Next you look at the state Senates. And
9 we have similar -- a similar kind of county precinct
10 sequence. And you being with the county splits.
11 And you note there is significant racial disparities
12 between the splits in Fulton, Gwinnett, DeKalb,
13 Cobb, Bibb, Chatham, Douglas and Houston and Newton,
14 Clarke, Hall, Muscogee, Fayette and Richmond
15 Counties.

16 You're not saying that these -- you're
17 saying, like the Congressional plan, that these are
18 splits consistent with a racial goal, not that it
19 was definitely a racial goal in those splits, right?

20 A Right. I would never try to claim that
21 I can definitely conclude anything about goals.

22 Q And you also say that numerous counties
23 were split into unnecessarily many pieces, again, in
24 that district than necessary. You're just referring
25 to that if it was done and there could have been a

1 reduction in precincts -- I mean in county splits?

2 A Right. Necessary refers to possibility.
3 And so, for instance, some counties are so large
4 that they're larger than Senate districts and so
5 they must be split. Those are necessary splits.

6 And, you know, some counties are so
7 large they must be split into at least a certain
8 number of pieces. And my point here is that the
9 actual number of pieces far exceeds that necessary
10 count.

11 Q And then you reference that there were
12 13 state precincts split with a significant racial
13 disparity; right?

14 A Yes.

15 Q And you didn't identify any other
16 precincts that were split on the Senate plan with a
17 significant racial disparity besides the 13, right?

18 A Right. And I think -- what I -- if I
19 wrote this well, which I hope that I did, what I
20 meant by significant is the same 20-point disparity
21 that was referred to earlier in the paragraph,
22 although I -- it would have been better if I had
23 specified within the sentence.

24 Q And then for the state House plan you
25 listed out 30 counties, and I won't read off all of

1 those. But I'm assuming the same opinion in terms
2 of you find the racially sorting splits consistent
3 with a racial goal, but you can't say for certain
4 that it is a racial goal, right?

5 A That's right. And I'll note that here
6 it returns to a theme I mentioned, you know, a few
7 hours ago, which is that, as I wrote here, the large
8 counties take the brunt of the splitting. So, you
9 know, Fulton 22 pieces and Gwinnett 21 and so on.

10 And that's something that I gleaned from
11 the public testimony was undesirable from a
12 community's point of view.

13 Q And then you say the number of precinct
14 splits was a striking number. Any special meaning
15 for striking there, like dominate earlier?

16 A No, there's no technical meaning, just
17 that I was struck by it.

18 Q Okay. And you identified only 47
19 precincts in the state House plan that are split
20 with a heavy racial disparity across the division;
21 right?

22 A That's right.

23 Q Then you conclude this section by saying
24 racially distinctive precinct splits provide
25 particularly strong evidence that race has

1 predominated over other principles in the creation
2 of the map. Do you see that?

3 A I do.

4 Q And so, again, this is -- you believe
5 this is strong evidence of racial predominance, but
6 you're not saying for certain that race predominated
7 based on the precinct splits alone, right?

8 A That's right. There's no attempt at
9 mind reading, if you will.

10 Q So let's move to community narratives.
11 In terms of the public input, you described it as
12 voluminous. So would you agree Georgia provided
13 lots of opportunities for public input in the
14 process?

15 A Sure. I mean, it certainly was a lot to
16 work through.

17 Q And as I understood the kind of keyword
18 approach that you took, you kind of loaded up all
19 the different testimony and then looked for keywords
20 and phrases. The legislature as far as you know
21 didn't have a kind of keyword analysis like you've
22 conducted here when they were drawing the maps;
23 right?

24 A I mean, unfortunately I was able to
25 discover no process on the part of the legislature

1 for taking seriously all that testimony. So as you
2 said a moment ago, many opportunities were provided.
3 But I don't see any indication that it was used to
4 inform the choices that were made.

5 Now, again, that doesn't mean I can be
6 certain that it wasn't used. But there's no public
7 record of how it was used. If there had been, I
8 would have been happy to follow the method.

9 Q And in looking at this section of your
10 report, are you offering any opinions about the
11 public comment or is it just kind of you -- you
12 created this keyword summary of it and pointed out
13 various things that people said from different
14 areas?

15 A So I did -- I did some keyword
16 searching, but I also attempted to read it through
17 in full. I mean, and there's so much of it that I
18 think you could probably better call that an overall
19 skim and then a keyword search.

20 But your question is am I characterizing
21 that testimony beyond what's presented here?

22 Q Right. Well, my -- the question is --
23 I'm sorry. My question is for this section, Section
24 10.3, the only opinion I saw in this section was
25 that the changes to CD 6 and CD 14 lack

1 justification by community of interest reasoning.
2 Is that correct that that's the only opinion in this
3 section?

4 A That's the only opinion as such. But
5 there are other useful, I think, pieces of
6 information in this section about the kind of
7 character of different parts of the state,
8 particularly CD 14 and the states northwest had
9 quite a volumen of strong testimony about what it
10 was like and who lives there.

11 You know, I would say that a great deal
12 of the public testimony was sort of expressing
13 support or lack of support for certain decisions.
14 What I tried to do in this Section 10.3 was to
15 extract community of interest testimony, which is to
16 say what do particular neighborhoods, regions or
17 areas have in common that's salient to redistricting
18 decisions.

19 There were a lot of other preferences
20 expressed that I didn't attempt to summarize.

21 Q I know we've been in this report for a
22 little while, but are there other opinions that you
23 offer in this report that we haven't discussed or
24 that are not -- well, let me ask it this way.

25 First of all, are there other opinions

1 you're offering in this report that we haven't
2 discussed in the testimony so for today?

3 A I think we hit all the highlights.

4 MR. TYSON: If we could go off the
5 record for just a minute.

6 THE VIDEOGRAPHER: We're going off the
7 record at 6:17.

8 (Recess.)

9 THE VIDEOGRAPHER: We are on the record
10 at 6:43.

11 Q (By Mr. Tyson) All right, Dr. Duchin.
12 We're going to pick up Exhibit 2, your rebuttal and
13 supplemental report.

14 A Yes.

15 Q S this report, as I read it, you
16 basically have three purposes. You're responding to
17 Mr. Morgan's September 5th report, supplementing
18 your report in light of Ms Wright's deposition, and
19 making a correction to one of your appendices is
20 that right?

21 A That's right.

22 Q Okay. So first of all, let's talk about
23 your response to Mr. Morgan in Section 1. You talk
24 about the use of an ensemble analysis and I'm
25 familiar with that. But if you could just kind of

1 for the record explain what a -- what an ensemble
2 analysis involves.

3 A Sure. Excuse me. And the simplist
4 level, ensemble here just means a collection as in a
5 collection of alternative maps. But typically in
6 the context of redistricting analysis, when people
7 say they're talking about an ensemble they usually
8 mean a collection made by an algorithmic process.

9 So you might use a computer to generate
10 many, many alternatives and then look at the
11 aggregates statistics of that collection and use
12 those comparatively to understand choices made in a
13 given map you're evaluating.

14 Q And in your view is it impossible to
15 draw any conclusions such as Mr. Morgan draws in his
16 report based on his single alternative plan
17 because it's not a -- kind of scientifically
18 rigorous way in your mind to analyze that concept on
19 a redistricting map. Is that fair to say?

20 A Well, whether or not the alternative is
21 to be scientific, I think even to be systematic you
22 might look to a collection of alternatives. And so,
23 for instance, I give an example here on Page 1 where
24 Michael Altman and Mike McDonald have a paper --
25 these hand-drawn maps to do a comparative analysis,

1 in particular maps that were made in a student
2 mapping competition. And that -- I think that can
3 also be quite valuable.

4 And so I don't mean to be -- by saying I
5 was going to undertake a more scientific approach, I
6 don't meant to say that the computational approach
7 is the only one possible. But -- I do mean to say,
8 as you noted, that you can't reliably infer intent
9 from just one alternative map.

10 Q And you'd agree generally with Mr.
11 Morgan that racial considerations can have an impact
12 on district shapes if the map drawer is taking race
13 into account; right?

14 A I would phrase it just as we've been
15 doing for the last few hours, that you face certain
16 tradeoffs and that there can be relationships
17 between demographic attributes and shape, no
18 question.

19 Q So in your analysis on Section 1.2
20 you're -- you have a comparison -- a similar chart
21 to what we looked at before in terms of the various
22 categories, majority BVAP, majority BHVAP, majority
23 BHCVAP, and in the fourth column or the fifth column
24 is titled effective opportunity. Is that the same
25 as effective on the prior tablet -- table, or is it

1 something different?

2 A It's exactly the same thing. It says
3 below, "Labeled as effective, et extra, et cetera."
4 It's the same effectiveness we have been talking
5 about for the fast few years.

6 Q And in terms of the configuration here,
7 you'd agree that there is a -- a decrease in the
8 number of majority BVAP districts on Mr. Morgan's
9 plans for the Senate district and House district
10 plans versus the enacted plans, right?

11 A There are definitely fewer majority BVAP
12 districts, yes.

13 Q And are you using your Alt 1 maps as a
14 comparison as opposed to 2 and 3? Is there a reason
15 why you selected Alt 1?

16 A No. I could just have easily have
17 suggested -- have selected Atl 2. Alt 1 contains
18 more of the Gingles alternatives, but anything would
19 have done. I could have included them all, but I
20 was trying to be succinct and to make the simplest
21 points that I could here.

22 Q So you make the statement on the next
23 page about a few of the remarkable facts of Mr.
24 Morgan's plan, you say. And the first is that Mr.
25 Morgan's race-blind Senate plan has a greater number

1 of districts majority black and Hispanic VAP and an
2 equal number by CVAP to the enacted plan.

3 And so by noting that, you're just
4 pointing that out here. You're not offering an
5 opinion about why that is or what happened with
6 that, right?

7 A Well, no, I -- I take him at his word
8 that he drew without regard to race or partisanship.
9 And so I found it really quite striking that just by
10 accident he had more majority coalition districts by
11 VAP, anyway, than the state plan, which is subject
12 to the Voting Rights Act, which he was ignoring. So
13 I did -- I did find that rather striking.

14 Q And you'd agree looking back at the
15 table that there is a -- there are fewer majority
16 BHVAPs than majority BHCVAP districts in the enacted
17 plan on Mr. Morgan's House plan, right?

18 A Yes, there are.

19 Q Okay.

20 A But you'll note, and I'm sure we'll get
21 to this. Almost the same number of opportunity
22 districts are effective.

23 Q And the -- again, just -- I know
24 opportunity being a word we haven't really used as
25 effective before, but the effective just means 3 of

1 the 4 primaries and 5 of the 8 generals on your
2 effectiveness plan; right?

3 A That's exactly what it means.

4 Q And when you reference the effective
5 districts that are involved, again, here you're not
6 offering an opinion, you're just noting that this is
7 the case, there are this many districts that are
8 effective on the plan, right?

9 A That's right. The table is just a
10 count.

11 Q And then just so we're clear, there's
12 also kind of a narrative summary. That's the
13 next -- top of the next page. And I didn't see any
14 opinion there either, or just a reference to this is
15 how many plans had. Is there any opinion in that
16 first paragraph of Page 4?

17 A I think to extract something approaching
18 an opinion you'd go to the next two paragraphs here.

19 Q Right. And so then the opinion that
20 you're offering about Mr. Morgan's plans is that --
21 well, the opinion is really is that the state's
22 Senate plan gave black and Latino voters less
23 electoral opportunity than the blind plan drawn by
24 Mr. Morgan for the Senate, right?

25 A That's right. And, you know, before

1 encountering the Morgan report, it was already my
2 impression that in terms of the black and Latino
3 coalition, as you saw, we -- we discussed this
4 earlier, that there was a stark limitation of the
5 number of majority districts as well as the number
6 of opportunity districts.

7 And I think -- I found Mr. Morgan's plan
8 to fit well with that finding, that determination on
9 my part.

10 Q And in that last paragraph where you're
11 referencing the Senate plan and the Voting Rights
12 Act, you're not offering the opinion that the
13 current Senate plan doesn't comply with the Voting
14 Rights Act. You're just pointing out that it's
15 supposed to comply with the Voting Rights Act,
16 right?

17 A That's all I'm saying here.

18 Q So going into 1.3 about pursuing
19 majority black districts, and Mr. Morgan's various
20 regional ones. You then ran this chain
21 of districting plans for 100,000 steps on the
22 various different regions Mr. Morgan identified; is
23 that right?

24 A That's right.

25 Q And when you were running your

1 compactness scores this that ultimately was --
2 became Figure 3 on Page 5, you were only using cut
3 edges, compactness score and not Reock or
4 Polsby-Popper; right?

5 A That's right.

6 Q And is there a particular reason why you
7 only used that one metric of compactness as opposed
8 to others?

9 A Yes. Because I was doing a chain of a
10 hundred thousand, and the cut edges score as a
11 matter of just computation is calculated in
12 milliseconds, whereas it takes a bit more time,
13 maybe a second, for the Polsby-Popper and Reock
14 scores because they're based on contours.

15 And so it would have been inefficient to
16 calculate those at every step.

17 However, I did, as you can said from the
18 appendix here, from the Visual Comparison Appendix,
19 Appendix B, I did select a subsample of the run
20 outputs to both show visually and also to look at
21 various kinds of compactness scores. And I verified
22 that the compactness scores are comparable to or
23 better than the ones that -- that are discussed here
24 for comparison.

25 So in some since you asked why I only

1 included this one, it would have computationally
2 inefficient to calculate the others a hundred
3 thousand times. But also, having read Director
4 Wright's testimony and before reading that I wasn't
5 sure if the state used any particular. But she
6 disavows the use of any compactness metric at all.

7 And so I don't think there was a
8 particular reason to favor one over the other.

9 Q And in looking at Figure 3, this is a
10 comparison of -- the enacted plan is the yellow dots
11 and then these other -- those look like lines. I
12 know they're not lines. They're items are the
13 various parts of your experiment that you ran with a
14 a hundred thousand steps; right?

15 A That's right. Those, what look like
16 lines, are made up of blue dots. And there's one
17 dot per plan. So you're seeing a hundred thousand
18 dots.

19 Q And the higher the dot, the less
20 compact -- or the yellow dot, I'm sorry, the less
21 compact the plan is as they're all on the cut edges
22 scores; right?

23 A Right. Exactly on that Y axis, higher
24 up is less compact.

25 Q And in terms of this type of analysis

1 that you've done here, I understand from Appendix A
2 deviations were given a little bit -- you were given
3 specific deviation measures for your hundred
4 thousand steps; is that right?

5 A Deviation measures, you mean population
6 deviation?

7 Q I'm sorry. Yes, so let me take a step
8 back for a second. So when you were conducting your
9 chain of districting plans for this analysis in
10 Section 1.3, did you have limitations on the number
11 of counties that would be splint on those particular
12 maps?

13 A No, I did not limit the number of county
14 splits. Instead, I implemented, as I describe here
15 in Section -- in Appendix A, I implemented a kind of
16 filter, you might say, that prefers county
17 integrity, but I didn't impose a hard limit.

18 Q And deviation, did you set limits for
19 the analysis on the deviations of the hundred
20 thousand steps?

21 A For that I did. For population
22 deviation, yes. As described on Page 11, I put a
23 hard limit on the allowable population deviation.

24 Q So for each of these you couldn't say
25 for each of the steps how many counties are split on

1 a particular iteration along this blue dot grouping
2 on Figure 3; is that right?

3 A Well, I could certainly go back. I've
4 you -- I've provided raw materials that are
5 sufficient to actually -- it contains all hundred
6 thousand plans for each of these runs.

7 So the backup materials do contain
8 replication data that you could use to go through
9 and calculate that, absolutely.

10 I will say that I have -- oh, sorry.

11 Q I'm sorry. I'll let you finish your
12 answer. Yes.

13 A Sure. I will say that I've confirmed
14 that this method of prioritizing county integrity
15 gives me in general maps that have a comparable
16 number of county splits to ones that are viewed in
17 the enacted plan.

18 Q So what is the opinion that you reach at
19 the end of this 1.3 section about Mr. Morgan's
20 inclusions?

21 A I think he's -- I find that he's
22 definitely wrong and having said literally that the
23 only way to get additional majority black districts
24 is with worse compactness. I think that's clearly
25 shown to be wrong by the creation of tens of

1 thousands of examples.

2 Q In the primary you're also concluding
3 that Mr. Morgan's method is inadequate to reach the
4 conclusion about the connection between compactness
5 and racial considerations; right?

6 A Yes.

7 Q Let's move to Ms. Wright's deposition.
8 And you talk about her testimony on partisan
9 advantage. And so first I wanted to ask in terms of
10 the pursuit of partisan advantage.

11 Did the information from Ms. Wright's
12 deposition cause you to reconsider or review any of
13 the splits of counties or precincts that you said
14 were racially -- racially sorted in your January
15 13th report?

16 A If the question is whether I literally
17 went back and reviewed them again after I gave the
18 testimony, no, I did not. It did, though, give me
19 an overall sense of how priorities might have been
20 balanced such as there's a section of her deposition
21 where she concedes that -- as I had already
22 suspected in the initial report, there was a
23 willingness to tolerate additional splits of urban
24 counties and that that might have been done for
25 partisan reasons.

1 I think that I recall that being
2 described in her report.

3 Q And then you had proceed to conduct an
4 analysis on -- a similar analysis, I guess, using
5 plans with -- favoring plans with more Mr. Trump
6 favoring districts from his presidential run in
7 2020. Is there a reason why selected the
8 presidential race instead of the public service
9 commission race that Ms. Wright referenced?

10 A Not a particular reason except that I
11 had a quite limited amount of time to execute this
12 after I got my hands on the deposition transcript.
13 And I tried a few -- so as a responsible data
14 scientist who's trying to present things a fully and
15 with as high quality as possible, I always try to do
16 robustness checks and make sure that my findings
17 aren't unduly influenced by arbitrary decisions that
18 I make.

19 And so to that end, I considered using
20 different elections, although I did not conduct
21 these long hundred thousand step runs with multiple
22 elections. But I did -- I did look briefly at
23 whether that would -- a choice of different
24 elections would change the findings.

25 I also looked at whether seeking

1 districts with a 55 percent Trump advantage rather
2 than just a 50 percent would influence the findings.
3 And I found that the findings were robust -- robust
4 to these different upstream choices.

5 So I have a pretty high confidence that
6 the selection of the Trump election doesn't distort
7 the findings here.

8 Q And so your selection in 2.1, you're
9 working through the experiment on partisan
10 advantage, and you say, "I can ask whether plans
11 selected for partisanship but with no race data tend
12 to have the same hallmarks of racial sorting that I
13 find in the enacted plans."

14 And this is not an analysis that you
15 conducted for your January 13th report. Why is
16 that?

17 A Well, at the time of the January 13th
18 report I was not aware that the parties responsible
19 for creating the state's plan were acknowledging
20 partisanship as an open pursuit. I became aware of
21 that when I read the deposition transcript. And
22 that suggested a study like this.

23 Q Can you walk me through what Figure 4
24 shows based on the experiment that you conducted for
25 House, Senate, and Congressional.

1 A Yes, I'll note that Figure 4 should be
2 thought of as just setting the table for the
3 findings which occur in Figures 5 and onward. So
4 just as a preliminary matter, what Figure 4 shows is
5 that these chain runs succeed in producing maps that
6 are at least as Trump favoring while being
7 respectful to traditional principles.

8 In this case I've just chosen
9 compactness to single out. But as I said, I
10 confirmed from these kinds of chain runs that
11 they're also comparable to or sometimes better than
12 the enacted plan on the other TDPs that have metrics
13 associated to them. I've just chosen compactness
14 here as an example.

15 So that's what you see in these figures.
16 You see the number of Trump-favoring districts.
17 Again, that yellow or amber dot represents the
18 enacted plan. And what you're seeing is a cloud of
19 data points that shows you the kind of tendencies
20 encountered along this run.

21 And you can see that it's -- these chain
22 runs are finding more Trump-favoring districts,
23 especially at the House level, while finding
24 comparable or usually better compactness.

25 Q And so then the number of blue dots that

1 are below the yellow dot are districts that are
2 more favorable politically and more compact; is that
3 correct?

4 A Being below just means that they're more
5 compact by the measure of cut edges. And being to
6 the right means that they have more Trump favoring
7 districts.

8 Q And so on the Congressional analysis
9 then it's in the middle in terms of the plans there.
10 Is that -- what is that -- the placement of the
11 yellow dot in the Congressional on Figure 4 tell you
12 about the Congressional plan?

13 A What that says is that the enacted
14 Congressional plan has 9 districts where Trump got
15 more votes than Biden. This is the 2020 election.
16 And that in this run with this kind of -- so-called
17 temperature setting meant to select -- to more
18 likely select things with more Trump advantage, I
19 was finding 7 through 11 Trump favoring districts
20 most of the time.

21 I was slightly more often finding 10 to
22 11 rather than 7 or 8 in this run.

23 Q And when you're talking about setting
24 the table -- and I know we'll get to the next page.
25 But then -- so the range for each of those indicates

1 that the number of districts that you've found for
2 that particular plan --

3 So for Senate, for example, it was
4 generally between 28 and 35, House generally between
5 95 and I guess a click above 110, somewhere in that
6 neighborhood?

7 A Yeah, 94 to 111, it looks like. And,
8 you know, in the Senate run it looks like there
9 might be one example with 28, but more examples a
10 little bit higher.

11 Q And did this experiment -- sorry.

12 A Sorry. I'll mention just to help you
13 kind of orient yourself to the figure. So this is a
14 run. It's called a chain because it literally is
15 executed as a sequence of changes. So you can think
16 of it as a chain of changes.

17 And the reason you see these kind of
18 tails in the scatter plot is that often the -- the
19 beginning point, the initial map that was used at
20 the beginning of the sequence of changes would have
21 been not very compact.

22 And so for the first thousand or two
23 thousand steps the changes are making it more
24 compact and then as it enters the region where you
25 see a cloud and stays there for the rest of the

1 time.

2 So you should -- I did verify this by
3 confirming that those tails that you see are
4 happening in the early part of the run. And that
5 for most of the length of the run it's circulating
6 around that cloudy region.

7 Q And you say that -- for Figure 4, this
8 is examining the effects of partisanship. How does
9 this type of analysis affect an analysis of
10 interaction of race and partisanship in the drafting
11 of redistricting plans?

12 A Well, so here I used the term effects.
13 We might also say the entailments or we might say
14 the necessary correlates. And so what this helps
15 you understand is whether a pursuit of partisanship,
16 at least in the manner described here will
17 necessarily entail other properties.

18 And so something that we're seeing is
19 that a priority on more Trump-favoring districts
20 doesn't necessarily force less compactness. You can
21 see that here. That's demonstrated conclusively
22 here.

23 And what we'll see in the subsequent
24 figures is that it doesn't necessarily force a
25 cracking pattern in the demographic population of

1 the districts either.

2 Q And for these different pieces, did
3 you -- do you -- did you analyze any racial data or
4 did you just instruct the steps not to consider that
5 in terms of the development of a plan?

6 A As far as I'm aware, there are no --
7 well, at least no publicly released ensemble
8 techniques. They use race to propose a change to a
9 plan. I've just never seen that.

10 Instead what you might see is what I
11 described here, which is making a random proposal of
12 change and then flipping a coin to decide whether to
13 accept that change. Sometimes that's done in a way
14 that take a look at racial demographics.

15 But here in the first experiment where I
16 was looking for more majority black districts it was
17 that coin flip that takes the number of majority
18 black districts into account.

19 But in the second part where we're
20 leaking at partisanship, no race data was used at
21 all at any stage, proposal or acceptance.

22 Q So we don't know for sure what the
23 number of majority BVAP districts, majority BHVAP
24 districts are on any of the steps. So we just don't
25 know the -- what that is, right?

1 A That's right. We don't know that,
2 although I handed over enough materials to go back
3 and compute if one would like.

4 Q Well, and I guess what I'm really trying
5 to ask is that in terms of districting plan that
6 provide effective districts, there's no interaction
7 here between effective districts, partisan goals,
8 race. This is solely looking at the question of
9 Trump favoring districts and compactness; is that
10 right?

11 A Well, that's what you see in Figure 4.
12 But, you know, again, it plays sort of a table
13 setting role. All I'm showing here is I designed
14 the experiment to get at least as many Trump
15 favoring districts while still being compact and
16 respecting counties.

17 And this confirms, at least, that I
18 achieved more Trump-favoring districts and good
19 compactness. I could have shown you the same plot
20 for other features, but I did check that it was
21 doing a good job with the other TDPs as well.

22 Q Okay. So let's move beyond the table
23 setting to the food on Figure 5 and the other
24 analysis. So can you walk me through -- next you're
25 looking at whether the enacted plan is unusual in

1 its racial balance among highly partisan
2 alternatives.

3 So can you explain the next step of this
4 analysis that you conducted after the process in --
5 displayed in Figure 4?

6 A Absolutely. So this takes the same
7 hundred thousand plans that we just observed on the
8 previous scatter plot, the same plans -- not
9 similar, but identical -- and now considers how much
10 BVAP shared is in every district.

11 Now, because these proposed -- these
12 alternative districting plans don't come to you with
13 a numbering, I haven't tried to number them
14 geographically. Instead I've just sorted them
15 from -- in this case there are 14 districts because
16 these are Congressional plans. And so I've sorted
17 them from the one with the lowest BVAP share to the
18 one with the highest BVAP share.

19 So you have to be a little bit careful
20 of that when you interpret a lot like this. The
21 Column 6 is the one -- sixth from the bottom in
22 terms of its BVAP share. It's not necessarily
23 anywhere close to District 6 in the state.

24 Q And so moving into Figure 5 then, can
25 you walk through what the box whiskers plot

1 demonstrate about the BVAP share of these various
2 plans versus the enacted plans.

3 A Yes. Absolutely. So let's focus on the
4 last column, the right-most column, which is in all
5 cases looking the district with the highest BVAP
6 share across all hundred thousand and one plans.
7 Right? There's the hundred thousand that I
8 generated, plus the one enacted plan.

9 So the box and whiskers is showing
10 you -- the box goes from the 25th to the 75th
11 percentile of observations and the whiskers are set
12 from first to the 99th. So what this is saying is
13 that 98 percent -- at least 98 percent of the plans
14 that I constructed in this process have somewhere
15 between what looks like 57 percent and about 78
16 percent BVAP in their highest BVAP district.

17 The middle of the box or sort of noted
18 within the box is a horizontal line, and that's the
19 median. It looks to me like that median level in
20 that highest BVAP district is about 68 percent.

21 So what that's saying is that about half
22 the plans that I constructed had a district with
23 more than 68 percent BVAP and half did not have a
24 district with more than 68 percent BVAP.

25 When you see the enacted plan right

1 there about that level. So it's level of BVAP
2 typical of the highest BVAP you would observe in
3 this universe in which you're seeking more Trump
4 districts.

5 Q And then the districts you've
6 highlighted in the middle, those are the ones where
7 the enacted BVAP is lower than what you would expect
8 to see in those districts; is that correct?

9 A That's right. What you see in the one
10 indexed 6, 7, 8, and 9. So, again, this doesn't
11 correspond to District 6, District 7, District 8,
12 and District 9. It's just the ones that are in the
13 middle in terms of the BVAP level.

14 What you see is that it's above or below
15 that bottom whisker. And so in the 6th index and
16 the 9th index district, that means that no more than
17 1 percent of plans that I produced had BVAP that
18 low.

19 And I would estimate visually, although
20 we can look this up. I, of course, have the exact
21 statistics, that no more than 2 or 3 percent of the
22 ensemble had BVAP that low in the ones indexed 7 and
23 8.

24 Q And then indexed at 11 and 12, those
25 where the enacted plan had BVAP higher than what we

1 expected in the ensemble plan, is that right?

2 A That's right. Sorry. Excuse me one
3 second. I thought I might sneeze.

4 Yeah. And what you said there,
5 especially in the one indexed 11, is just really
6 high above the whiskers. But we shouldn't be too
7 surprised because that's right at that 50 percent
8 line which, as we know, has a particular legal
9 relevance. Right?

10 So, yes, it would be unusual for plans
11 simply seeking Trump advantage to be -- to have as
12 many districts at or close to that 50 percent line.
13 But given that that's occurred, what that means is
14 that we're going to have to see BVAP below median
15 elsewhere. Because there's a fixed amount of BVAP
16 in the state, and the districts are all very close
17 to equal populous.

18 And so the question is: Where is the
19 BVAP going to be low. Will it be in the highest
20 districts where there's already an opportunity to
21 elect? Will it be in the lowest districts where
22 there's probably, all things being equal, less
23 chance of opportunity to elect. Not impossible, as
24 we'll see, but less likely. Or will it be in the
25 middle range which, all things being equal in a

1 50/50 state would be where you're seeing the
2 opportunities -- where districts are more contested,
3 where districts are more competitive, where Trump
4 advantage might be sought at the expense of
5 opportunity.

6 Q Okay. And you say at the end of your
7 discussion in Figure 5 this does not suggest a race
8 neutral pursuit of partisan advantage, but rather a
9 highly race conscious pursuit of partisan advantage.
10 Do I have that right?

11 A Yes.

12 Q And your conclusion there is not that
13 the legislature definitely pursued partisanship in a
14 race conscious manner, but that the evidence is --
15 would support that conclusion, right?

16 A As usual, yes.

17 Q And then the charts on the next page for
18 this House and the Senate, do those generally show
19 the same things we've been discussing regarding the
20 Congressional plan or do they do something
21 different?

22 A They generally show the same thing.
23 Now, in the Congressional plan, that so called
24 middle range that I've highlighted is really
25 centered at the middle. In the Senate plan you can

1 see that it's shifted a little bit up from the dead
2 center.

3 Well, of course, there's 56 Senate
4 districts, so the center would be at 28 and the
5 green zone that I've highlighted is centered a
6 little higher than that. And the House -- of course
7 there are 180 districts, so I've only shown number
8 60 through 120 here.

9 And 90 would be the center. And the
10 green zone that I've highlighted has again shifted a
11 little bit to the right of that.

12 The reason I chose those districts to
13 highlight is that that's where I was seeing the
14 general pattern of depressed BVAP. And, as I said a
15 moment ago, you'd expect in a roughly 50/50 state
16 all things being equal, that middle range is where
17 you'd expect to see cracking or the lowering of BVAP
18 in a way that pursues partisan advantage.

19 If that pursuit of partisan advantage
20 was more aggressive, so if it wasn't sort of limited
21 to just the middle districts but trying to pursue
22 more districts, then it would be shifted a little
23 bit up. And that's what we see here.

24 Q So is it your conclusion that the
25 general assembly could have been a lot more partisan

1 than it was and chose not to?

2 A Well, I definitely don't think they were
3 seeing seeking maximum numbers of Trump favoring
4 districts. The evidence here suggests, as you saw,
5 that it was possible to get quite a few more Trump
6 favoring districts.

7 Now, of course the -- the tendency to
8 have more Trump votes than Biden isn't a perfect
9 indicator of success in districted election. It's
10 just a proxy. But to the extent that it's a useful
11 proxy, which I think it is, it's definitely true
12 that they could have achieved even more partisan
13 advantage.

14 Q And so if the legislature had thought to
15 achieve more partisan advantage, is it possible that
16 these charts in Figure 5 and in Figure 6 would
17 reflect more favorably as less race conscious then?

18 A Let me see if I understand the question.
19 You're asking if my chain runs were even more
20 aggressive or if the state was more aggressive?

21 Q It was trying to understand if the state
22 was more aggressive. So if the date was pursuing a
23 partisan advantage but not a maximized partisan
24 advantage, would that be in part, at least, an
25 explanation for what we're seeing in Figure 5 and

1 Figure 6, or would that not matter?

2 A Well, keep in mind that my chain runs
3 are also not maximizing. So I do think it's a
4 reasonable experiment to use for the pursuit of
5 partisan advantage that is successful but
6 not extremal.

7 Q So when you reference the signature of
8 cracking for the House and Senate it's referring to
9 that lower than expected BVAP the middle range of
10 districts. Is that a good way to summarize that?

11 A Sure. And I should say, it's not just
12 lower than expected meaning like low medium. It's
13 frequently below that first percentile. It's really
14 quite low in a number of places, especially in the
15 Senate map.

16 Q And for the Senate and House, the
17 same -- the same limitation as on the Congressional.
18 You're not saying that it shows that there was a
19 race conscious pursuit of a partisan advantage.
20 You're saying this is just evidence they would
21 support a conclusion of race conscious pursuit of
22 partisan advantage.

23 A That's right. I think it's suggestive
24 evidence.

25 Q Okay. So I want to ask -- the next page

1 over, 2.2, the last sentence of the first paragraph
2 says, "In a partisan motivated plan for a 50/50
3 state, we would expect cracking in the middle range
4 of districts as discussed above. If that
5 partisanship is pursued aggressively, we would
6 expect it to extend somewhat above the middle range
7 if the controlling party tries for more districts.
8 That is what we see here."

9 Did I read that right?

10 A I went on mute. Yes, you did, and
11 that's what I just tried to explain a moment ago,
12 that the -- the highlighted range is shifted
13 somewhat above the dead center, and I think that
14 that's consistent with a more aggressive pursuit of
15 partisan advantage.

16 Q And so then there's a discussion of the
17 ten random plans from the Trump favoring collection
18 of the Morgan alternative plan. Can you just walk
19 me through what the various sequence of numbers are
20 on -- in this paragraph on Page 10?

21 A Sure.

22 Q The next paragraph. Sorry.

23 A I should say, this is -- this is an
24 attempt to give you some intuition about the
25 unlikelihood of the observation. It's not kind of a

1 rigorous, sort of significance test in a statistical
2 way.

3 That would be difficult or probably
4 impossible to do here because of the very
5 complicated correlations. But so this just supposed
6 to give some intuition.

7 Okay. So here's what the numbers say.
8 So if you look -- start with the Congressional case,
9 which is discussed in the second paragraph on Page
10 10. And so I say, "The relative position of the
11 enacted plan is 1-1-1-1." What I mean by that is if
12 you consider enacted plan and ten alternatives.

13 So that's -- and those ten were spaced
14 out from the chain run. So I grabbed -- there's a
15 hundred thousand plans in the chain run. So to get
16 ten I grabbed something every 10,000 steps. Right?
17 So they're spaced out from the chain run.

18 And among those 11, the enacted plan is
19 lowest every time in the districts indexed 6 through
20 9, so 1-1-1-1-1.

21 By contrast, if we look at the Senate
22 plan there are 19 districts there and it's lowest of
23 all -- and now there are 12 alternatives because
24 there's the Morgan plan, the ten generated by
25 computer and the enacted plans, another 12

1 alternatives, and the enacted plan is lowest of all
2 16 out of 19 times.

3 Twice it's second and once it's third.
4 That's how to read the sequence of numbers. And
5 then of course it's the same thing in the House
6 where the numbers vary from 1 most often to 2 and in
7 one case get up to 6.

8 Does that make sense in terms of -- have
9 I explained those relative position numbers?

10 Q Yes.

11 A Okay. And then there's a probability
12 calculation. And, as I said, this is just
13 illustrative to get some intuition. But going back
14 to Congress, if you were -- if you were drawing
15 independently from the same distribution -- that's
16 what i.i.d. means, then the probability of being
17 last out of 11 four times in a row would be one out
18 of 11 to the 4th, which is less than 0.00007.

19 And I've done corresponding calculations
20 in the other cases.

21 Q Thank you. And at the end of this
22 section you say -- or actually, next to last
23 paragraph, you say, "In addition to these ensemble
24 comparisons, we find corroborating indications that
25 race was operationalized by the map makers by

1 considering other elements of the plan, such as the
2 high number of flip precincts."

3 And not to beat a dead horse here, but
4 you're not saying that race was operationalized by
5 the map makers. You're saying there's indications
6 that race was operationalized by the map makers;
7 right?

8 A Absolutely.

9 Q And in the summary you find the enacted
10 plan to have properties associated with the cracking
11 of minority voters, depressing their numbers in a
12 range of districts in a manner that reduces or
13 eliminates their opportunity to elect candidates of
14 choice.

15 And, again, you're not saying the
16 enacted plan was intended to crack minority voters
17 in this way. You're saying that it has properties
18 associated with that kind of cracking; correct?

19 A That's right. It may be a coincidence,
20 but it looks an awful lot like it would if you were
21 trying to crack minority voters.

22 Q And then the last sentence, "This is
23 consistent with a hypothesis that a race was used to
24 achieve partisan outcome in the state's enacted
25 plans."

1 The same thing here. You're not saying
2 race was used to achieve partisan outcome in the
3 state's enacted plans. You're just saying it is
4 evidence that it's consistent with that fact; right?

5 A Yeah, I -- and I got further than
6 consistent with. I say highly suggestive of.

7 Q Would any of your opinions about the
8 impact of race and partisanship be changed if you
9 knew that the map makers had not referred to racial
10 data in the drawing of the enacted plan? And I'm
11 not saying that they did. I'm just saying, would
12 that change your opinion if that hypothetical was in
13 place?

14 A If I knew for a fact that race data
15 hadn't been used? Well, you know, I think I can
16 say -- you typically ask someone to draw a plan who
17 knows the state pretty well. And my understanding
18 is that Director Wright has been in that position or
19 a similar position for years.

20 And so I think it would be hard for her
21 to turn off her knowledge because my impression is
22 that she's a highly competent map maker with some
23 significant local knowledge of Georgia.

24 I think it would be hard to turn that
25 off just because you turned off, you know, the "show

1 me race" button in your mapping software.

2 In another case that I was in recently,
3 one of the witnesses called that a mind wipe, saying
4 you'd need a mind wipe to not know anything about
5 race and geography if you really know a state.

6 So it's hard for me to kind of conjure
7 up the counter-factual, someone who knows the state
8 well enough but doesn't know anything about -- you
9 know, is kind of legitimately blind to patterns of
10 residential demographics.

11 Q Moving to the correction of the report.
12 The correction that you made to your report in
13 part -- or appendix C, I guess if your supplemental
14 report doesn't change any of your conclusions, does
15 it?

16 A Oh, certainly not. It's extremely
17 minor. I just have flipped the fractions, and I had
18 the numerator and denominator reserved. It -- I'm
19 just trying to be quite comprehensive and
20 transparent here, but I think the correct meaning
21 can be easily understood from the original report.

22 Q Let's move from these to your CV. I
23 just want to walk through a few background and other
24 questions. Let's use Exhibit 4, which is the CV
25 provided to us.

1 A Okay.

2 Q And let me know when you have that.

3 A It's loading.

4 Q Okay. Sometimes Exhibit Share works
5 quickly and sometimes it work slowly. And it
6 doesn't always seem to be related to file size.

7 A Okay. It just loaded.

8 Q All right.

9 So I want to ask if you would just walk
10 through a few pieces of your background here.
11 Obviously you had your degrees in mathematics and
12 women's studies from Harvard and your master's and
13 PhD from Chicago in mathematics.

14 What was the year where you first drew a
15 redistricting map?

16 A Well, I got interested in redistricting
17 only relatively recently in 2016. And since then I
18 have become deeply professionally and intellectually
19 engaged in trying to understanding redistricting
20 with new tools from mathematics.

21 So probably it would be 2016 that I --
22 maybe 2017 that I first drew a plan.

23 Q And the MGGG redistricting lab at Tufts
24 began in 2017; right?

25 A Well, there's a question of naming.

1 MGGG started as a group of friends, Metric Geometry
2 and Gerrymandering Group was a collective of
3 mathematicians and recovering mathematicians who
4 wanted to think about redistricting.

5 And then I kind of transitioned it into
6 a lab over the span of the next few years. So the
7 lab moniker probably first got attached in 2018, was
8 certainly in place by 2019.

9 Q Okay. So the reference in your CV to
10 2017 for the lab is just when it first kind of
11 officially started even if it didn't get named that
12 until later?

13 A That's right. As a collective we
14 started issuing white papers and doing study and
15 running a large summer program and building our open
16 source software. That all started in 2017.

17 It official became a lab a little bit
18 latter. I'm representing that the work of the lab
19 began in 2017.

20 Q And at Tufts you're currently on a
21 tenured position as a professor of mathematics;
22 right?

23 A That's right.

24 Q And in any of your professional
25 experience list here at various universities, I'm

1 assuming you've always left on your own terms or
2 not -- not removed from any position; right?

3 A I've never been fired. I think that's
4 what you're asking. The positions that -- the
5 positions at David and Michigan were term,
6 three-year post-doctoral positions.

7 Q Let's turn to your publications. I know
8 you have kind of -- as I read it, kind of two
9 sections. One is a -- has more of a redistricting
10 focus and one is much more your pure math focus on
11 those pieces.

12 Is it fair to say the publications on
13 Pages 2 and the top of 3 are your publications that
14 are related to redistricting and the census
15 primarily?

16 A Mostly redistricting and the census.
17 Some of this work relates to alternative electoral
18 systems. So I would say I study social choice and
19 elections more generally, not -- not limited to
20 redistricting.

21 A few of these papers are on somewhat
22 different topics, such as measuring segregation. So
23 that's related, but not identical to electoral work.
24 And there's at least one paper that's -- the last
25 one listed here, that's just about migration

1 patterns of mathematicians around the world.

2 So I would say there's a variety of
3 different topics covered here.

4 Q And you've worked at least initially
5 with -- on the efficiency gap and partisan
6 gerrymandering questions in some of your
7 publications; right?

8 A Definitely. And also -- I see. So this
9 is the 2022 CV. My -- my most recent returns to a
10 kind of theme of measuring partisan fairness in
11 redistricting. So that's been a topic throughout.

12 Q And you didn't use any efficiency gap or
13 other partisan fairness metrics in your analysis of
14 the Georgia plans in this case, right?

15 A Well, that most recent paper is actually
16 about using proportionality as a fairness metric.
17 So to the extent that in this report I'm able to
18 look at how seat chairs relate to vote chairs, I
19 suppose implicitly you could call that a partisan
20 fairness metric.

21 Q But beyond that type of analysis, you
22 didn't use any of the other deficiency gap type
23 statistical analyses for your work here; right?

24 A I didn't. But actually, one of the
25 interesting things about efficiency gap compared to

1 partisan symmetry and other notions, is that you can
2 read it off of seats and votes.

3 So you could, actually. You don't need
4 any special calculations. You could work out
5 efficiency gaps all through the report if you were
6 so inclined.

7 Q So I'm looking at your teaching and
8 courses that you're -- have developed or customized.
9 I was looking at those. It seems to me that the
10 only one really one kind of related directly to
11 redistricting was mathematics of social choice.

12 Are there redistricting parts of other
13 courses you've taught?

14 A Yes, the classification lab looks at
15 lot at censuses. So that's -- that's fairly related
16 to this work. And Mathematical Models in Social
17 Context we actually use redistricting as an example
18 in that course as well.

19 Q And --

20 A Actually, I should also mention the
21 Markov Chains course also heavily uses redistricting
22 as an example because the chains that we talked
23 about in the last rebuttal reports, "chains" is
24 short for Markov Chains, which is a leading
25 mathematical method that I had the pleasure of

1 teaching at the gradual level.

2 Q I've dropped another exhibit in here,
3 Exhibit 5. This is something I found on the
4 website. It's the syllabus from the Mathematics
5 of -- Math of Social Choice.

6 A I'm waiting for it to load.

7 Q Okay.

8 A Okay. It's just loaded.

9 Q Okay. So is this the -- I'm sorry. The
10 syllabus from the Math of Social Choice from Tufts
11 in 2021?

12 A This would have been during shutdown, so
13 2021 sounds -- oh, it says 2021 at the bottom. Zoom
14 Semester Redux.

15 So, yeah, I taught this. I think I
16 taught social choice at Tufts three times and once
17 at Boston College.

18 Q And in the middle of the -- what's the
19 class about, you say, "We'll develop some
20 mathematics to help us understand what's hard and
21 sometimes impossible about our goals for systems of
22 social choice."

23 A Yes.

24 Q What do you mean by our goals for
25 systems of social choice there?

1 A Well, it's -- I'll say it's an
2 unexpected pleasure to get to talk about my
3 curriculum designs. So thank you for that
4 opportunity.

5 Q I saved this for the end for you, so --

6 A I have something precise in mind with
7 that phrasing. So forgive me for slipping into
8 professor mode for a moment here.

9 So what we call social choice, that
10 phrase comes from the mid 20th century when Ken
11 Arrow and other economists built axiomatic
12 frameworks for studying elections. And what -- what
13 that means is Arrow wrote down a collection of
14 axioms of fairness. So he wrote down what your
15 possible goals might be for a system.

16 So the axiom there really is a kind of
17 property that's satisfied by some systems and not
18 others. So it has the status of a goal.

19 And so what are those goals? I'll give
20 you some examples. One of his axioms was something
21 called Pareto efficiency which means if every single
22 voter has the same first choice, that person should
23 win.

24 So that would be a goal -- I mean, it
25 sounds pretty reasonable, right? And so that would

1 be a goal. I wouldn't want to choose a Democratic
2 mechanism that doesn't satisfy that property is the
3 status of the goal.

4 And Arrow really kicked off the interest
5 of technical people in studying elections by proving
6 a kind of bombshell theorem in 1951. That said, if
7 you just put down three simple goals, then you
8 cannot meet them all of the time. No social choice
9 system can simultaneously offer you guarantees to
10 meet multiple fairness goals at once.

11 Q Thank you. That's a helpful
12 explanation.

13 A That's what I do for a living.

14 Q So let's go next to -- back to your CV.
15 I want to talk a bit more about the redistricting
16 lab.

17 A Yes.

18 Q And in the -- let me see if I can find
19 the cite. You say that the lab has provided --
20 there we go, Page 7 in program developer. It
21 provided public mapping support for roughly 140
22 localities after 2020 census data was released.

23 Were any of those 140 localities states
24 and state legislative maps?

25 A The public mapping support? Yes. For

1 example, we were hired by the Michigan Department of
2 State to do the public mapping support for the
3 Independent Citizens Commission in Michigan.

4 Another example is Alaska.

5 Q Any others?

6 A I could give you a few. I'm really --
7 I'm very proud of this work. We really did a lot
8 of -- this isn't a service of communities of
9 interest.

10 And so when I mentioned earlier that I
11 love it when I can be concrete about communities of
12 interest. This is the kind of work that you need to
13 be able to do that.

14 So we were hired by the Alaska
15 Redistricting Board, which is a nonpartisan board in
16 Alaska to -- or I guess bipartisan. One never knows
17 how to most accurately describe those. But we set
18 up the software that they could use to let members
19 of the public draw their own maps.

20 In many states like Michigan the
21 software lets you either submit a districting plan
22 or just draw your community.

23 And so you could take testimony like the
24 testimony collected in Georgia but now ask people,
25 "Show me where your neighborhood is. Show me what

1 you're talking about."

2 And then for four states, we provided a
3 service where we aggregated the thousands of public
4 submissions into clusters that you could use to be
5 quantitative in your study of respect for
6 communities of interest.

7 Q And the support that you provided, it
8 wasn't drawing the redistricting maps necessarily,
9 it was providing information to people who were
10 drawing the maps; right?

11 A Oh, actually I would even say it -- when
12 I say public mapping support, I mean we allowed
13 members of the public to draw. That's what I mean
14 by public mapping support.

15 Q Excellent. Thank you.

16 And it's probably obvious from the
17 timing, but this was the -- 2021 was the first
18 decennial redistricting cycle where this lab was in
19 existence, right?

20 A Definitely. Like I said, this was only
21 a twinkle in my eye in 2016.

22 Q And did the lab draw districts that can
23 then be used in elections for jurisdictions?

24 A I can think of one example where we were
25 thought we were drawing demonstrative maps, and that

1 map was enacted. And that happened in Jackson -- in
2 Jackson, Tennessee, to our great surprise.

3 Q And was that a county commission or city
4 council district?

5 A City council.

6 Q But the lab, at least so far, hasn't had
7 a statewide map that it drew used in an election,
8 right?

9 A Well, I as an individual, as I mentioned
10 earlier, worked with the Massachusetts State Senate
11 on its drawing process. But I try to be careful to
12 distinguish -- you know, it's -- it's delicate, but
13 I try to be careful to distinguish the lab as a
14 research lab sitting at Tufts University from work
15 as an individual when I do consulting projects.

16 And so I would say the lab -- you know,
17 as a lab has not drawn maps that have been enacted
18 anywhere.

19 Q And then we'll get to your work when we
20 get to that part here in a minute so we can cover
21 that at that point.

22 Now, one of the things that in program
23 building you reference you worked with is the Voting
24 Rights Data Institute in 2018 to 2019. Right?

25 A Right. I created it, that's correct.

1 Q I want to produce Exhibit 6 here. There
2 we go. It should be showing up for you now.

3 A Okay. I have it.

4 Q And so this is the -- from the website
5 you can see the 2019 papers and links from the VRDI.
6 Is that right?

7 A VRDI, that's correct.

8 Q And you have a variety of publications.
9 I'm assuming these are things that you gave to
10 participants in this institute to study and learn
11 about redistricting. Is that fair to say?

12 A Well, the design is that -- I wasn't the
13 only one teaching at VRDI. And so I think the
14 material on censuses, that -- that I chose, I
15 selected those papers to share with participants.

16 But, for instance, the section on
17 communities of interest, I didn't lead personally.

18 Q Okay. What about the legal overview of
19 actual redistricting practices section there? Did
20 you select The Realist's Guide to Redistricting as
21 the tool for that?

22 A I did, yes.

23 Q Okay. So I want to take a look at that.

24 A Sure.

25 Q This may take another minute to load

1 here. I'll represent to you that this what I
2 downloaded from the -- from the link here in Exhibit
3 6, clicking on that. I'm going to mark it as
4 Exhibit 7.

5 A Okay. I believe you. It's still
6 loading, but maybe you could go ahead with the
7 question.

8 Q Sure. So what I wanted to ask, there's
9 a-- when you get it loaded up, on Page 57, which is
10 30 -- Page 38 of the pdf. There's a statement in
11 this book that says it could be difficult to
12 demonstrate that race is the underlying cause of
13 racial polarization, especially because minority
14 voting patterns often track partisan voting.

15 And I just was curious. Is that a
16 statement you agreed with in your work in the
17 redistricting space?

18 A I do --

19 MR. CANTER: Bryan, can you -- I
20 apologize, Moon. Could you point me to the
21 page where that statement is made?

22 MR. TYSON: Yes, it's on Page 38 of the
23 pdf. It's titled 57 at the top. And it
24 begins at the very bottom of Page 57. It can
25 be difficult. It goes over to the top of Page

1 58.

2 A Sure. Okay. I'll read this more
3 carefully before I agree, but I --

4 Q Sure.

5 A I predict that I will agree. "It can be
6 difficult to demonstrate that race is the underlying
7 cause of racial polarization especially because
8 minority voting patterns often track partisan
9 voting."

10 That's the sentence you asked about,
11 right?

12 Q Correct.

13 A Right. I would -- I would definitely
14 agree that what we're talking about here -- just to
15 be clear, what I this is saying is we're talking
16 about the cause in terms of voter behavior. We're
17 asking what causes a voter to vote one way rather
18 than another way.

19 And I definitely agree that coming to
20 any definitive conclusions about reasoning and voter
21 behavior is extremely difficult when all you have is
22 demographics, cast vote patterns, and sometimes, you
23 know, auxillary did a late registration and so on.

24 Sometimes you have survey data.

25 Sometimes you have polls. But generally you're

1 trying to cobble together a picture of voter
2 motivation and voter psychologist from those kinds
3 of artifacts. And that can be quite difficult to
4 do. I would agree with that.

5 Q Let's move to the last page of your CV
6 then, Selective Professional Service and Public
7 Facing Work.

8 A Sure.

9 Q I see you filed an Amicus brief in the
10 Rucho versus Common Cause case. And so I've marked
11 as Exhibit 8 what I believe is that brief. I wanted
12 to see if you could pull that up.

13 A Surely.

14 Q And is it fair to say that one of the
15 purposes of this Amicus brief in the Rucho case was
16 to urge the Supreme Court to find that there was a
17 mathematical solution to partisan gerrymandering?

18 A Well, I think that might go a little
19 far. But I was -- I was hoping that --

20 The brief argues that they're a
21 manageable tool for assisting in adjudicating
22 partisan gerrymandering cases. And so that's what
23 I -- I would say my focus was in writing this brief.

24 Well, as you know, there's a number of
25 amici on the brief, but the principal writing was

1 done by myself and Guy-Uriel Charles.

2 Q And going to Page 21 of the pdf, which
3 is titled Page 15 at the top, so to make it
4 confusing.

5 A Yes?

6 Q There's a statement there towards the
7 end of that paragraph that takes up most of the page
8 that says, "We must, therefore, create a benchmark
9 understanding of neutral districting plans in a
10 state-specific setting. Once we have such a
11 benchmark, we can compare it to the challenged
12 district plan to determine whether, in the light of
13 evidence, an intent to discriminate is the best
14 explanation for a district's design."

15 Did I read that right?

16 A You read that right.

17 Q Okay. And that benchmark of
18 understanding for neutral plans in a state-specific
19 setting in this brief was your method ensemble by
20 creating this tens of thousands or millions of
21 plans, right?

22 A That's right. What this is advocating
23 for is an ensemble analysis for partisan
24 gerrymandering. And I want to specify since I think
25 it's important to understand the intent here is to

1 describe, as I said before a kind of manageable tool
2 and a manageable standard, not a one-size fits all
3 tool that you need to use for everything.

4 I have quite a body of scholarship
5 looking at ways that ensembles can be used and
6 sometimes shouldn't be used. So this doesn't mean
7 to propose that there's one approach that works for
8 every kind of redistricting analysis.

9 Q And you've written a book recently
10 called Political Geometry, right?

11 A Well, I'm an editor.

12 Q Okay.

13 A So it's an edited volume within --

14 Q And I'm sorry.

15 A I did write large chunks of it indeed.
16 And, boy, that project took a long time. But I'm an
17 editor and there are many contributors.

18 Q And one of those contributors Professor
19 Jonathan Rodden, right?

20 A Right. I think it's pronounced Rodden,
21 yes.

22 Q Rodden. I'm sorry. And one of the
23 contributors is Kristen Clarke?

24 A That's right.

25 Q And one contributor is Ellen Katz?

1 A Yes, exactly.

2 Q Do you personally believe that the
3 Voting Rights Act has been weakened in recent times?

4 A Oh, certainly.

5 Q And how so?

6 A Well, for instance, in the Shelby County
7 decision, the preclearance list was effectively
8 emptied, and so -- this is just my understanding of
9 the history. I'm not speaking here with any legal
10 authority, to be clear. But my understanding of the
11 history is that Section 2 and Section 5 were both
12 operational and much used up to 2013, and since then
13 the pre-clearance list is essentially empty. I
14 think there's one example of a bail-in locality.
15 And other than that, only Section 2 is now available
16 for litigation.

17 Q And when I was reading the different
18 interviews you've done over time, I ran into your
19 description of a Massachusetts in several places and
20 being a Republican in Massachusetts. Can you just
21 kind of briefly recap what that description
22 involves?

23 A Sure. And I'm honored that you've read
24 so much and listened to so much of my work. So
25 thank you.

1 Yes, so Massachusetts I find to be an
2 absolutely fascinating example. It's my home state
3 and when I'm not here in New Zealand. And one of
4 the things I think is interesting about
5 Massachusetts is that it has a distinctive political
6 geography that makes it difficult and often
7 impossible to achieve anything like proportionality,
8 for example.

9 I could sort of explain that more. But
10 let me know if you have a particular question.

11 Q Well -- and my main question is that you
12 have, for example -- I think you gave an example
13 that if Republicans get a third of the votes,
14 they're still going to zero seats, and it looks like
15 it's a partisan gerrymander, but I really has to do
16 more with the geographic distribution of Republicans
17 in the state. Is that right?

18 A That's exactly right. It's the most --

19 Q Let me ask a few questions that --

20 A Sure.

21 Q Go ahead.

22 A It's just -- it's the most uniform
23 political geography I've seen anywhere where -- in
24 many elections you find that Republicans have about
25 a third of the vote statewide and about a third in

1 every county and about a third in every town and
2 often not too far from a third in every precinct.

3 So even though you have a third of the
4 vote, you have no areas, at least in a certain
5 string of elections that -- where a Republican won.

6 Q Let me move to the last section here for
7 your expert work in redistricting litigation. So I
8 just want to understand. You reference series of
9 cases and states. So first can I just ask: Have
10 you drawn redistricting maps that were statewide
11 that were adopted by any commission or legislature
12 and have been used in an election?

13 A Well, I had a role in drawing the
14 Massachusetts Senate map I keep mentioning. I
15 wouldn't say I was the only -- far from the only
16 person who had a drawing role in that. And in the
17 rest of these --

18 Let me look at these quickly. I drew
19 demonstrative maps in several of these, but they
20 were -- they were demonstrative fo litigation.

21 I had an interesting role with the
22 Advisory Commission in Wisconsin, the People's Maps
23 Commission in Wisconsin where they asked me to use
24 ensemble methods to show them examples of maps with
25 different properties, and they ultimately ended up

1 proposing maps to the legislature -- this is the
2 People's Maps Commission created by the governor in
3 Wisconsin.

4 So based on my examples, they ended up
5 modifying them substantially and proposing maps to
6 the legislature that met their various criteria.
7 But the legislature then ignored those maps and
8 proposed different ones and it ultimately ended up
9 in state court.

10 Q So what I wanted to do then was just for
11 the list of states just ask you kind of what you've
12 done, report, deposition, and/or trial testimony.

13 A Sure.

14 Q Wisconsin, which of those did you
15 provide?

16 A A report. In Wisconsin the state
17 Supreme Court never heard expert testimony.

18 Q How about in North Carolina?

19 A That was a very extensive project. I
20 think I filed four reports and testified in State
21 Court.

22 Q In State Court. Okay.

23 A Yes.

24 Q How about in Alabama?

25 A In Alabama that was a district court,

1 three-judge panel. That's the Milligan case that,
2 no doubt, you might have heard a mention or two.
3 And so in that case I was the -- I still am since
4 the case is technically ongoing -- the Gingles 1
5 expert for LDF.

6 Q And in Pennsylvania what was -- what
7 type work did you do in those cases?

8 A So in Pennsylvania I have an expert for
9 the governor, Governor Wolf, the former governor.
10 And that was -- it was a very complicated one.
11 Being a split control state, there wasn't an enacted
12 map to challenge.

13 So instead there was a one-judge State
14 Court or Commonwealth Court hearing in which I think
15 it was 12 different parties had the right to propose
16 up to two maps.

17 And the way the timing was set up, we
18 experts were supposed to analyze those many, many
19 maps in under 48 hours. So I would call that the
20 wildest of the cases listed here.

21 Ultimately in that case it was Jonathan
22 Rodden's map. He have an expert for a different
23 plaintiffs' group, and it was his map that was
24 ultimately selected for adoption at the
25 Congressional level.

1 Q And then that what kind of work have you
2 done in South Carolina in the expert space?

3 A South Carolina is another state where I
4 was an expert for LDF. And in that I was an expert
5 in two different cases, one challenging the House
6 districts and one challenging the Congressional
7 districts. There was no challenge to the Senate
8 districts.

9 The House case was settled. The
10 Congressional case was decided recently but there's
11 an appeal to the supreme court, and we're waiting to
12 find out if that appeal for a stay will be taken up.

13 Q And that was a federal three-judge panel
14 as well; right?

15 A Federal three-judge panel. Although,
16 notably -- let me think about this for a second.

17 Actually, I'm not totally sure. There
18 are a number of these, as you see. I'm not totally
19 sure whether that was federal -- it was federal.
20 That's correct. The reason I'm not completely
21 certain is that notably, unlike Alabama, it's no a
22 VRA case. The case in South Carolina is
23 constitutional only.

24 Q And then in Texas, what kind of percent
25 work did you do there?

1 A In Texas I am working on behalf of the
2 NAA -- Texas NAACP. Those are the plaintiffs. And
3 I'm working with the Lawyers Committee. And that is
4 just an omnibus case with some of everything.
5 So there are VRA claims, there are constitutional
6 claims, there are challenges to all three levels of
7 restricting, and that's very much ongoing.

8 Q And then Georgia, I'm assuming, refers
9 to these cases, right?

10 A That's right. And I didn't -- it looks
11 like I didn't have the case caption to list. And
12 I'll mention that since this CV was handed over,
13 I've also filed an affidavit in a challenge to the
14 Boston City Council Districts. This time on behalf
15 of the defendants to the voting rights challenge.

16 Q So in the boston City Council you're
17 representing the defendants in a case against the
18 challenge brought by plaintiffs under the Voting
19 Rights Acts?

20 A That's right, on -- the VRA challenge is
21 on behalf of black voters in Boston.

22 MR. TYSON: Can we go off the record for
23 just a second.

24 THE VIDEOGRAPHER: We are going off the
25 record at 7:58.

1 (Recess.)

2 THE VIDEOGRAPHER: We are on the record
3 at 7:59.

4 MR. TYSON: Well, Dr. Duchin, I really
5 appreciate your time today. That's all the
6 questions I have for you and I hope you have a
7 great rest of the day and look forward to
8 seeing you soon.

9 THE WITNESS: Thanks. I hope you have a
10 great day, too.

11 THE VIDEOGRAPHER: Does anyone else have
12 any more witness?

13 MR. CANTER: No questions from the
14 Georgia NAACP plaintiffs.

15 THE VIDEOGRAPHER: So for myself and Ms.
16 Carla, the court reporter does anyone want
17 the -- you know what? Let's just do this in
18 chat. That way it doesn't take so long. Ask
19 what you want and how you want it, and if you
20 want video and how you want that and we'll get
21 it to Veritext and get it right to you all.

22 And is this expedited for anyone?

23 MR. CANTER: We can do it through chat.
24 That's just fine, Scott.

25 THE VIDEOGRAPHER: Okay. So we're going

1 to go ahead and go off the record now.

2 Thank you, ma'am. You've done a grat
3 job.

4 THE WITNESS: All right.

5 THE VIDEOGRAPHER: We are going off the
6 record -- off the record at 8 o'clock.

7 (Deposition concluded.)

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DISCLOSURE

STATE OF GEORGIA DEPONENT: MOON DUCHIN, PhD
COUNTY OF FULTON

Pursuant to Article 10.B of the Rules and Regulations of the Board of Court Reporting of the Judicial Council of Georgia, I make the following disclosure.

I am a Georgia Certified Court Reporter. I am here as an independent contractor for Veritext Legal Solutions. Veritext Legal Solutions was contacted by the offices of Bryan Tyson, Esquire, to provide court reporting services for this deposition. Veritext Legal Solutions will not be taking this deposition under any contract that is prohibited by O.C.G.A 9-11-28 (c).

Veritext Legal Solutions has no contract/agreement to provide reporting services with any party to the case, any counsel in the case, or any reporter or reporting agency from whom a referral might have been made to cover this deposition. Veritext Legal Solutions will charge its usual and customary rates to all parties in the (will not be given to



CARLA J. HOPSON, CCR# B-1816
March 22, 2023.

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C E R T I F I C A T E

STATE OF GEORGIA:

COUNTY OF FULTON:

I hereby certify that the foregoing deposition was taken down, as stated in the caption, and the colloquies, questions and answers were reduced to typewriting under my direction; that the foregoing transcript is a true and correct record of the evidence given.

The above certification is expressly withdrawn and denied upon the disassembly or photocopying of the foregoing transcript, unless said disassembly or photocopying is done under the auspices of Veritext Legal Solutions, Certified Court Reporters, and the signature and original seal is attached thereto.

I further certify that I am not a relative or employee or attorney of any party, nor am I financially interested in the outcome of the action.

Th:  .

CARLA J. HOPSON, RPR
Certified Shorthand Reporter
B-1816

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

GEORGIA STATE CONFERENCE OF)	No.
NAACP, et al.,	)	1:21-CV-5338-ELB-SCJ-
	)	SDG
Plaintiff,)	
)	
vs.)	
)	
STATE OF GEORGIA, et al.,)	
)	
Defendant.)	
_____)	

VIDEOTAPED 30(b)(6) and 30(b)(1) DEPOSITION OF
SENATE REDISTRICTING & REAPPORTIONMENT COMMITTEE
(MR. JOHN F. KENNEDY)
January 20, 2023
9:03 a.m.
18 Capitol Square SW
Atlanta, Georgia

Reported by: Marcella Daughtry, RPR, RMR
CA CSR 14315
GA No. 6595-1471-3597-5424

1 may have been some input from me and what -- and whatever
2 else other input she received and she decided to draw it.

3 The second part of your question was and to
4 release it, I think you asked.

5 Q Yes.

6 A Was a decision based on a conversation with the
7 Lieutenant Governor that we wanted to release a
8 congressional map that reflected generally what our
9 thoughts were about how a congressional map perhaps
10 should look or should be considered for comment and
11 further conversation.

12 Q Do you recall whose idea that was?

13 A To do what?

14 Q To release it. Was it your idea or the
15 Lieutenant Governor's idea?

16 A I don't specifically remember, no.

17 Q Do you recall the reasoning for the decision?

18 A Part of the reasoning was -- and the one driver
19 that I remember was, the Lieutenant Governor and I
20 thought it would be good for the Senate to be the first
21 to set forth a map that reflected some of the work of our
22 committee and the Senate body and place it out for
23 consideration and begin the narrative around or the
24 discussion around what a congressional map ought to look
25 like. And I believe we were the first to release such a

1 map for consideration.

2 Q You wanted to be first in front of who
3 specifically?

4 A Not necessarily anyone specifically, but we had
5 gotten to the point that we were comfortable, I think,
6 with the thoughts around this and the discussion needed
7 to begin. At this point in September, the clock is
8 ticking, and they all thought it might make some sense
9 for the Senate to make the first move ahead of the House.

10 Q So my understanding is you conferred with
11 members of the Senate Redistricting Committee, Lieutenant
12 Governor Duncan, and Gina Wright for this map. Is that
13 correct?

14 Is there anybody else?

15 A No, I don't think I said the Senate
16 Redistricting Committee. You phrased your question that
17 way earlier --

18 Q Okay.

19 A -- and I answered it by saying, no, this was
20 the product of me and the Lieutenant Governor and Gina
21 and our work. Because we had not had a committee meeting
22 as of September. Now, that's not to say that other
23 committee members didn't have input, but I want to be
24 clear that it wasn't the product or didn't come after a
25 committee meeting.

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C E R T I F I C A T E

STATE OF GEORGIA)
) ss:
COUNTY OF DEKALB)


I HEREBY CERTIFY that the foregoing transcript was taken before me; that I was then and there a Registered Professional Reporter and Registered Merit Reporter, License No. 6595-1471-3597-5424 for the State of Georgia, and License No. 14315 in the State of California; that the witness before testifying was duly sworn by me to testify to the whole truth; that the questions propounded by counsel and the answers of the witness thereto were taken down by me in shorthand and thereafter transcribed under my direction; and that the foregoing pages contain a full, true, and accurate transcript of all deposition testimony and proceedings had, all done to the best of my skill and ability.

I FURTHER CERTIFY that I am in no way related to, nor employed by any of the parties hereto, nor am I in any way interested in the outcome.

I have no direct contract with any party in this action and my compensation is based solely on the terms of my subcontractor agreement.

Nothing in the arrangements made for this proceeding impacts my absolute commitment to serve all parties as an impartial officer of the court.

DATED at Dunwoody, Georgia, this 2nd day of February, 2023.


MARCELLE L. DAUGHTRY, RPR, RMR
GA License No. 6595-1471-3597-5424
CA CSR 14315

Rebuttal and Supplemental Report

Moon Duchin
Professor of Mathematics, Tufts University
Senior Fellow, Tisch College of Civic Life

February 15, 2023

In this report, I will rebut certain opinions contained in the Expert Report of John Morgan on behalf of defendants, dated December 5, 2022. I will also supplement my own expert report of January 13, 2023 (and further rebut the Morgan Report) in light of the deposition transcript of Gina Wright, Executive Director of the Legislative and Congressional Reapportionment Office of the Georgia General Assembly, dated January 26, 2023. Appendix C below also makes a minor correction to an Appendix from my January 13 report.

1 Response to Morgan Report

1.1 Intent can not be reliably inferred from a single alternative map

The report of John Morgan is based on the following premise: by drawing a single alternative plan for each chamber of the Georgia legislature, he can illuminate the intent behind the enacted plans and their balancing of numerous criteria in play for electoral maps.¹

In Mr. Morgan's words,

I was asked to draw a "blind" plan that did not consider race or incumbency or past redistricting plans for Georgia. This plan did consider other traditional redistricting principles. Using my expertise, I proceeded to draw a plan for the House and then a plan for the Senate. I then compared the illustrative plans to the enacted plans and drew conclusions about the impact of racial considerations on the enacted plans. (¶5, page 3)

Comparison techniques are well established in the scholarly literature to illuminate the intent and/or effects of a particular choice of district boundaries. In particular, there is a long tradition of using a collection of publicly available alternative maps as a comparator for a proposed plan; to give just one example from a published article, Altman–McDonald [2] use a batch of alternative plans to illustrate different tradeoffs facing line-drawers in Virginia in a law review article from 2013. Altman and McDonald present numerous plans for each map they consider, including enacted plans, draft plans by the legislature, draft plans by an advisory commission, and alternatives generated by students in the context of a competition. Citing that article, DeFord–Duchin [3] approach the same problem but leverage more recent algorithmic techniques, offering collections (called *ensembles*) containing tens of thousands of alternative plans made under explicit interpretations of the rules and priorities in the Virginia guidelines. Whether armed with dozens or thousands of alternatives, authors can then conclude with varying degrees of persuasive strength about the interaction of different principles: Does a priority on county preservation tend to have an impact on compactness scores? Did

¹In Mr. Morgan's accounting, the principles he set aside are race, incumbency, and consideration of prior district boundaries. "Other" principles that he mentions—and presumably did consider in making his maps—include population balance, compactness by at least two measures, contiguity, "civic boundaries" (particularly those of counties, municipalities, and precincts), geographic features, and respect for communities of interest.

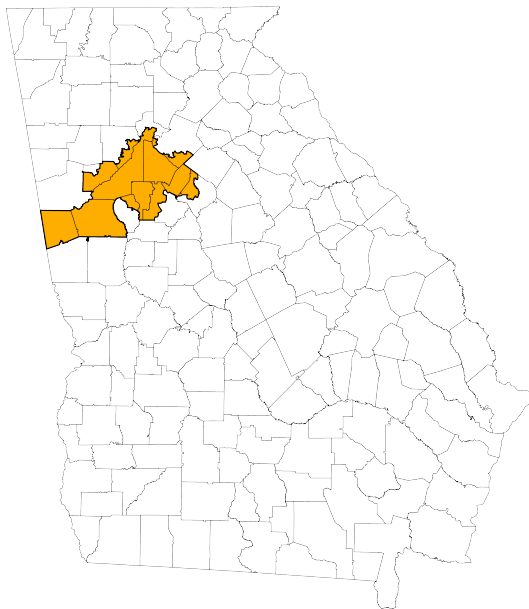
the special master's choice of how to break down the state into zones impose a partisan skew, relative to plans made without that zoning? And so on. Authors whose work uses comparisons with dozens, hundreds, or thousands of maps to make inferences of intent include, but are not limited to, Grofman, Mattingly, Imai, Chen, Clelland, Randall, as well as myself in collaboration with numerous co-authors.

In my opinion, based on my experience both with computational redistricting and through examining maps prepared by people with competing priorities in play, it would be impossible to draw any reliable conclusions as to lack of intent based on comparing a plan to a single alternative. This is especially true when the single comparator plan is drawn with a vague aim to pursue a long list of "other traditional redistricting principles" without differentiation or prioritization.

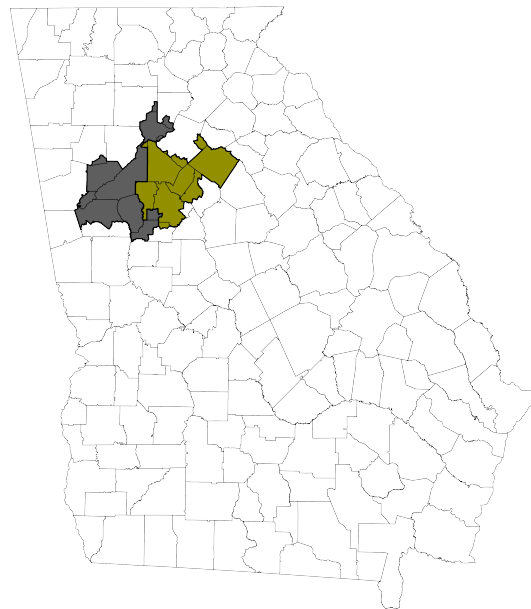
Below, I will take up Mr. Morgan's proposed method and execute it in a more scientific and systematic way, by using algorithmic generation of plans with varied priorities to better illuminate the choices and tradeoffs in the enacted plans.

The Morgan report identifies three regions of Georgia for analysis, each of which is replaced with an alternative map covering roughly (but not exactly) the same terrain. The regions are

- Senate Metro Region, made up of enacted districts 6, 10, 14, 28, 34, 35, 36, 38, 39, 40, 41, 42, 43, 44, 55 (15 districts);
- House Region 1, made up of enacted districts 52, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 111, 112, 113, 115, 116, 117 (28 districts);
- House Region 2, made up of enacted districts 25, 47, 48, 49, 50, 51, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 73, 74 (26 districts).



Senate Metro Region



House Region 1 (olive green)
and House Region 2 (gray)

Figure 1: Regions from the enacted legislative plans, as designated in the Morgan Report.

The alternative plans presented in the Morgan report are not limited to these regions but are drawn statewide.

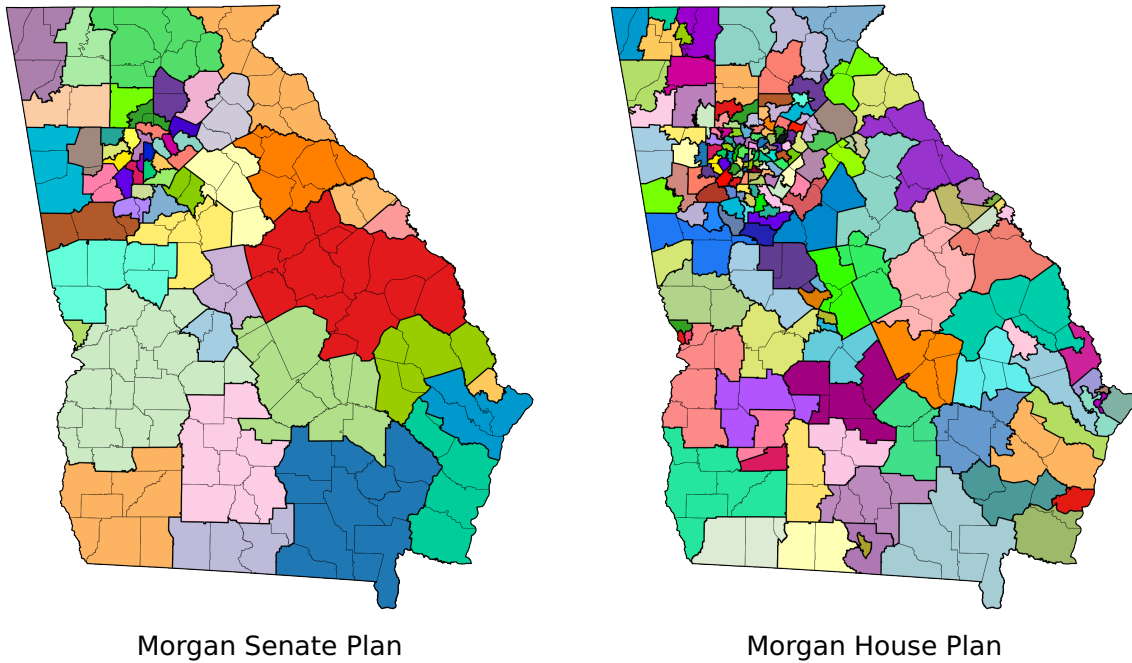


Figure 2: Statewide alternative plans presented in the Morgan Report for the chambers of the state legislature.

1.2 Majority-minority districts and effective opportunity-to-elect

	majority BVAP	majority BHVAP	majority BHCVAP	effective opportunity
EnactedCD	2	5	4	5
CD Alt	4	6	6	6
EnactedSD	14	17	17	19
MorganSD	11	19	17	20
SD Alt Eff 1	17	23	22	23
EnactedHD	49	62	60	68
MorganHD	35	48	44	67
HD Alt Eff 1	50	77	74	77

Table 1: The first three columns report the number of majority-BVAP, majority-BHVAP, and majority-BHCVAP districts, in the plans under discussion in this report—this counts majority-minority districts by Black voting age population, Black and Hispanic voting age population, nad Black and Hispanic citizen voting age population, respectively. The final column reports the number of districts labeled as "effective" for Black and Latino opportunity to elect candidates of choice. CD Alt, SD Alt Eff 1, and HD Alt Eff 1 are my own alternative plans that were proposed in my January 13 report.

Table 1 shows a few remarkable facts about the Morgan plans. One is that Mr. Morgan's race-blind Senate plan actually has a *greater* number of districts with a majority of Black and Hispanic VAP (19 rather than 17), and an equal number by CVAP (17), relative to the enacted plan. Another striking contrast can be drawn from examining Mr. Morgan's plans in terms of *effectiveness* in providing electoral opportunity for Black and Latino voters to elect candidates of choice.² Here, the Morgan alternative plans are remarkably similar to the enacted plan. MorganHD has 67 effective districts to the enacted plan's 68, and MorganSD actually outperforms the state, with 20 effective districts to the enacted plan's 19.

In other words, the enacted legislative plans do indeed have more majority-Black districts than the Morgan plans, but this is achieved while slightly *diminishing* opportunity to elect in the Senate plan and offering the barest increase in the House plan relative to Mr. Morgan's "blind" plans.

In particular, the state's Senate plan, which is required to comply with the Voting Rights Act, offers Black and Latino voters less electoral opportunity than a plan drawn "blind" by the state's own expert with no regard to the VRA.

1.3 Experiment: Pursuing majority-Black districts

By comparing the enacted districts with his alternative districts, Mr. Morgan makes the following conclusions:

- "In my opinion, the creation of additional black majority districts in [House] region 1 [led] to lower compactness scores in this region." (¶30, p23)
- "In my opinion, the creation of additional black majority districts in [House] region 2 [led] to lower compactness scores in this region." (¶34, p29)
- "In my opinion, the creation of an additional black majority district in the [Senate Metro] region [led] to lower compactness scores in this region." (¶46, p42)

I have conducted a simple experiment to examine whether there is evidence of the causality that is ascribed by Mr. Morgan. To do so, I have run an algorithmic procedure that randomly alters districting plans, with a specification favoring plans with more majority-Black districts. I ran this chain of districting plans for 100,000 steps on the regions House Region 1, House Region 2, and Senate Metro Region from the Morgan report. With these outputs, I can ask whether plans with more majority-Black districts are necessarily less compact.

I do not find that this is the case; on the contrary, an exploratory search turns up tens of thousands of examples that are at least as compact as the enacted plan with at least as many majority-BVAP districts.³ Notably, the alternatives I am considering are an exact match for the region covered by the enacted districts Mr. Morgan has selected, whereas his own alternatives are only approximate, and do not cover the same terrain.

²As detailed in §5 of my January 13 report (p15-19), an "effective" district is one in which the coalition candidate of choice would have won at least three out of four primary contests and five out of eight general contests from a dataset of probative elections.

³It is important to emphasize that this experiment was conducted to test a hypothesis about the relationship between majority-Black districts and compactness in the state's plan, not to maximize the number of majority-Black districts. Use of algorithmic techniques known as *heuristic optimization* or *local search* can find many examples with 4 majority-BVAP Congressional districts, 21 majority-BVAP Senate districts, and 66 majority-BVAP House districts. In Figure 3, I use block cut edges as a compactness score. Since the transcript of Director Wright's deposition indicated that the state did not use any particular compactness score, but favored the "eyeball test," I have also provided a visual comparison in Appendix 6 to demonstrate that these techniques also produce districts that are compact by informal, visual standards.

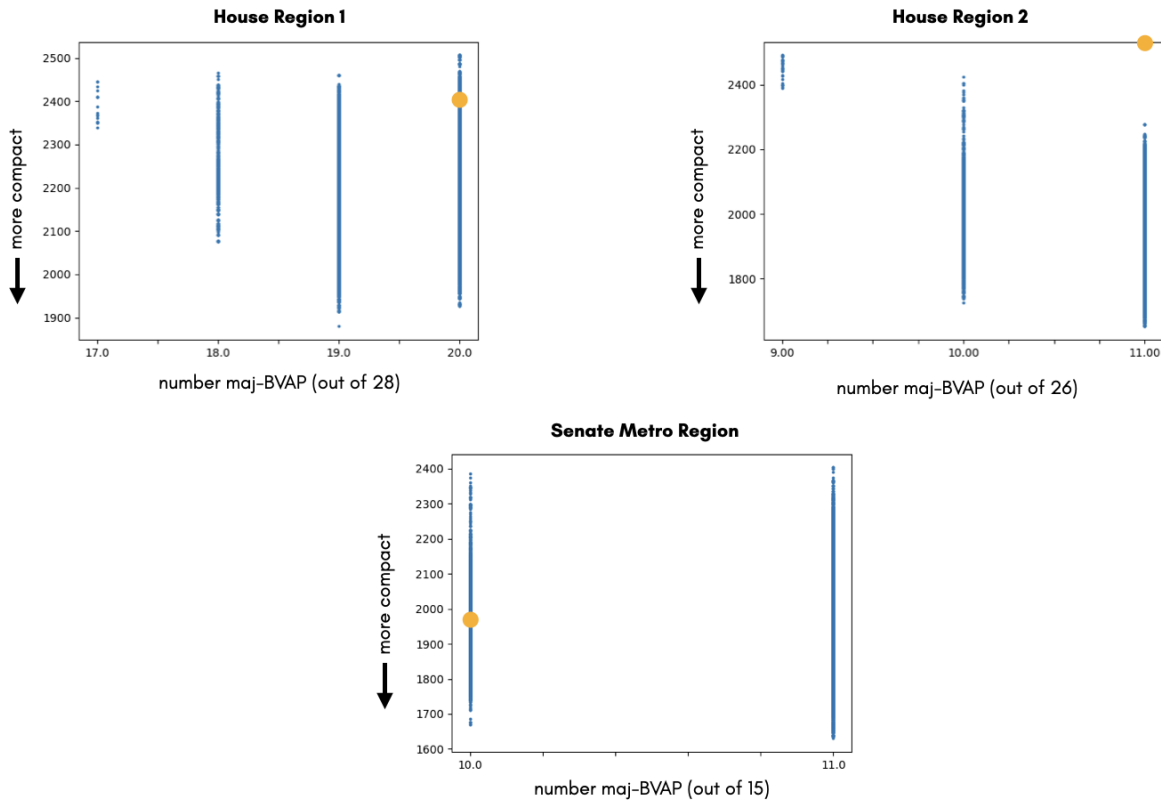


Figure 3: To test the hypothesis in the Morgan report, I generated 100,000 plans in each region with an exploratory algorithm. These runs show no evidence that there is a cost to compactness in matching the number of majority-BVAP districts in the state’s enacted plan; if anything, the correlation goes the other way. Large dots mark the position of the enacted plan on the plot (though in House Region 2, the enacted plan is so much less compact than these alternatives that it is out of range). I am unable to locate the Morgan alternative plan on these plots because it does not cover the same terrain.

1.4 Summary discussion of Morgan report

- Comparison to a single alternative plan is plainly inadequate to probe the tradeoffs and incentives in the enacted plan.
- Even though the regions under consideration are composed of whole districts from the enacted plan—28 districts in House Region 1, 26 districts in House Region 2, and 15 districts in Senate Metro Region—Mr. Morgan’s replacement districts do not cover the same terrain. This means that the alternative districts do not have the same collective contour and do not have the same demographics as the districts they replace, so it is not an apples-to-apples comparison.

- Mr. Morgan erroneously concludes from a consideration of his own maps that lower compactness scores are *required* to create additional majority-BVAP districts.⁴
- The Morgan plan for Senate (MorganSD), which is described as being created "blind" to race and ethnicity, has more districts with a majority of voting age population that is Black and Latino (19) than the state's enacted plan (17). The Morgan "blind" Senate plan also has more districts that provide an effective opportunity for Black and Latino voters to elect their candidates of choice (20) than are present in the state's enacted plan (19).

2 Discussion of Wright Deposition

In her deposition of January 26, Gina Wright described her work as a mapper drawing the enacted plans for Congress, Senate, and House. She broadly acknowledged that multiple motives were in play, which notably included the pursuit of partisan advantage for the Republican party

Regarding Congressional District 6:

Q: Do you know why Senator Kennedy's staff wanted to try adding Forsyth into CD 6?

A: The desire for [CD 6] was to make it a more politically electable district.

Q: Politically electable for whom?

A: For the party of the people who were drawing the map. (p111, lines 16-23)

And again later:

To my recollection, adding Dawson to CD 6 had to do with the political numbers of the district. That was the only thing. (p120, lines 1-3)

Regarding SD 17:

I think the idea was to draw a district that would be a Republican district. (p178, lines 10-11)

Appeals to partisan advantage are found throughout the transcript, in reference to CD 14, SD 48, HD 104, and in numerous other instances, sometimes justifying the downgrading of other traditional districting principles.

Their statements are consistent with a stance that party, not race, is explanatory of the features found in the enacted plans. In other words, any structural disadvantage to voters of color might be argued to be a mere consequence of the pursuit of partisan advantage for Republicans. To illuminate this possible argument, I will use the same method referenced above in connection with the Morgan Report. I have run an algorithmic procedure that randomly alters districting plans, with a specification favoring plans with more Trump-favoring districts from his Presidential run in 2020.

⁴For instance, he writes of several districts that "The black percentage is lowered *only* by elongating the district to include lower concentrations of black population. This allows the black population to be redistributed and to create other majority black districts." (repeated verbatim four times ¶30, p23; ¶33, p29; ¶44, p41; and ¶45, p42; emphasis added).

2.1 Experiment: Pursuing partisan advantage

I ran a chain of districting plans for 100,000 steps statewide for Congress, Senate, and House using a specification that up-weights plans with more Trump districts according to 2020 voting patterns. From these outputs, I can ask whether plans selected for partisanship—but with no race data—tend to have the same hallmarks of racial sorting that I find in the enacted plans.

Figure 4 sets the table by illustrating that the algorithmic procedure succeeds in securing as much or more partisan advantage (measured by counting districts in which Trump received more votes than Biden in 2020) as the enacted plan, while remaining respectful of traditional districting principles. Compactness is illustrated here, but considerations for population balance and county preservation were also implemented in the runs, as described in Appendix A.

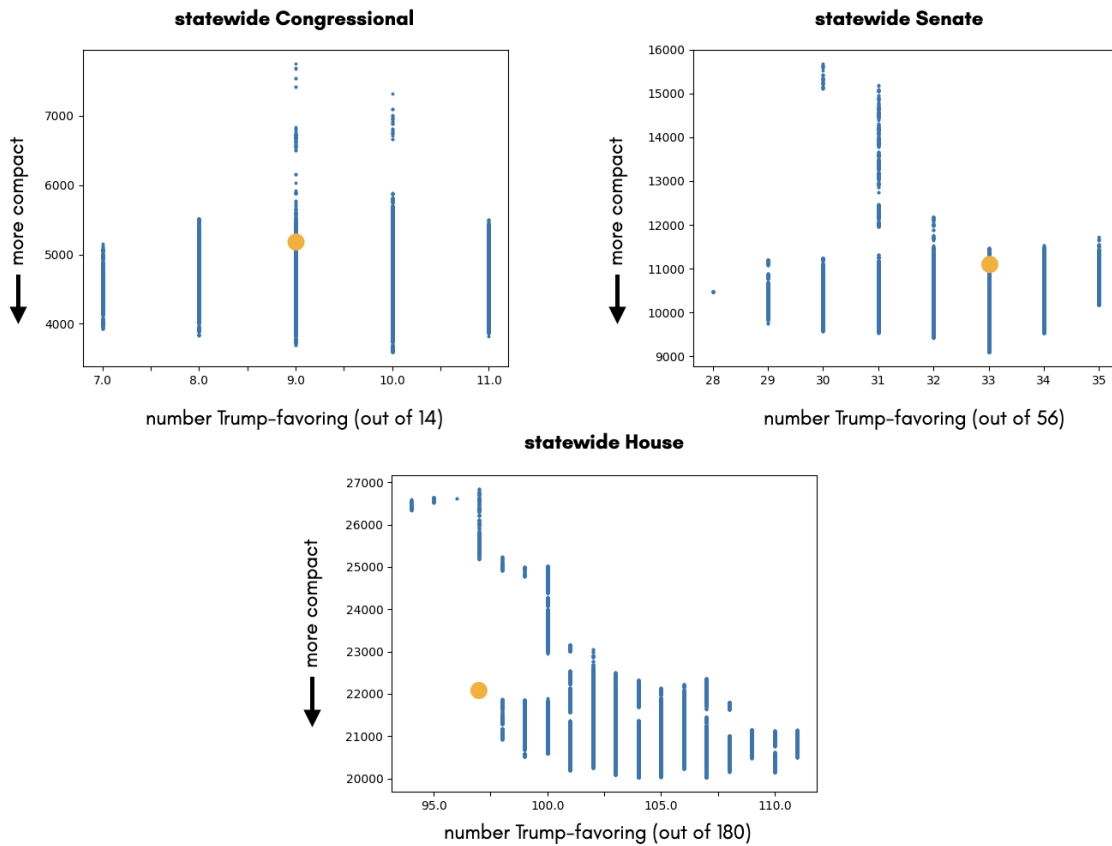


Figure 4: To examine the effects of partisanship, I generated 100,000 statewide plans at each level of redistricting with an exploratory algorithm seeking larger numbers of Trump-favoring districts from the 2020 Presidential election. The enacted plans, marked with large dots in the plots, have 9 Trump-favoring districts in Congress, 33 in the Senate, and 97 in the House. This figure is included to show that the algorithms meet and exceed the partisan performance of the enacted plan while respecting traditional districting principles. The following figures will illustrate the racial features that were used to achieve this on the part of the state.

Next, we examine whether the enacted plan is unusual in its racial balance *among highly partisan alternatives*. To do this, I will focus on the Black voting age population, since this was the principal racial category described by Director Wright as being considered in the mapping process.⁵ If a plan were drawn by using minority racial population to secure partisan advantage in a state with roughly 50-50 partisan support, we would expect to see that the districts near the middle range would be "cracked"—the middle range because, all things being equal, these would be the most likely to be contested for political party control in an evenly split state. This would show up on a boxplot with dots below the boxes, perhaps even at or below the whiskers, in the middle columns. That is exactly what we see in Figure 5.

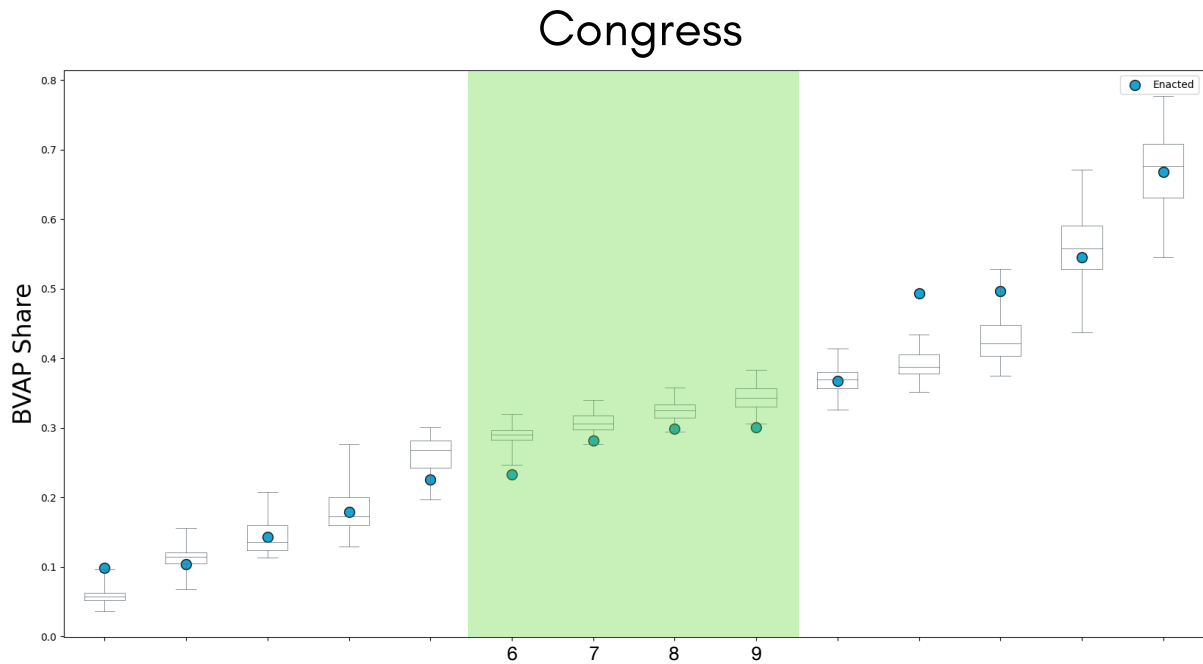


Figure 5: This box-and-whiskers plot organizes the districts of Congressional plans from the one with the lowest BVAP share to the one with the highest, regardless of geography. From 100,000 plans drawn with an emphasis on Republican partisan advantage, the box shows the 25th to 75th percentile, and the whiskers show the 1st to 99th percentile, of the Black voting age population share. The BVAP of districts in the enacted plan is shown with blue dots. Even compared to this collection of partisan plans, we can see that the middle range of districts show clear signs of "cracking," or reduced Black population relative to the comparison plans. This does not suggest a race-neutral pursuit of partisan advantage, but rather a highly race-conscious pursuit of partisan advantage.

⁵"I have not usually combined race categories together to consider it a packing or not packing. From my experience, it has typically been one single race category." (Wright transcript p171, lines 11-14)

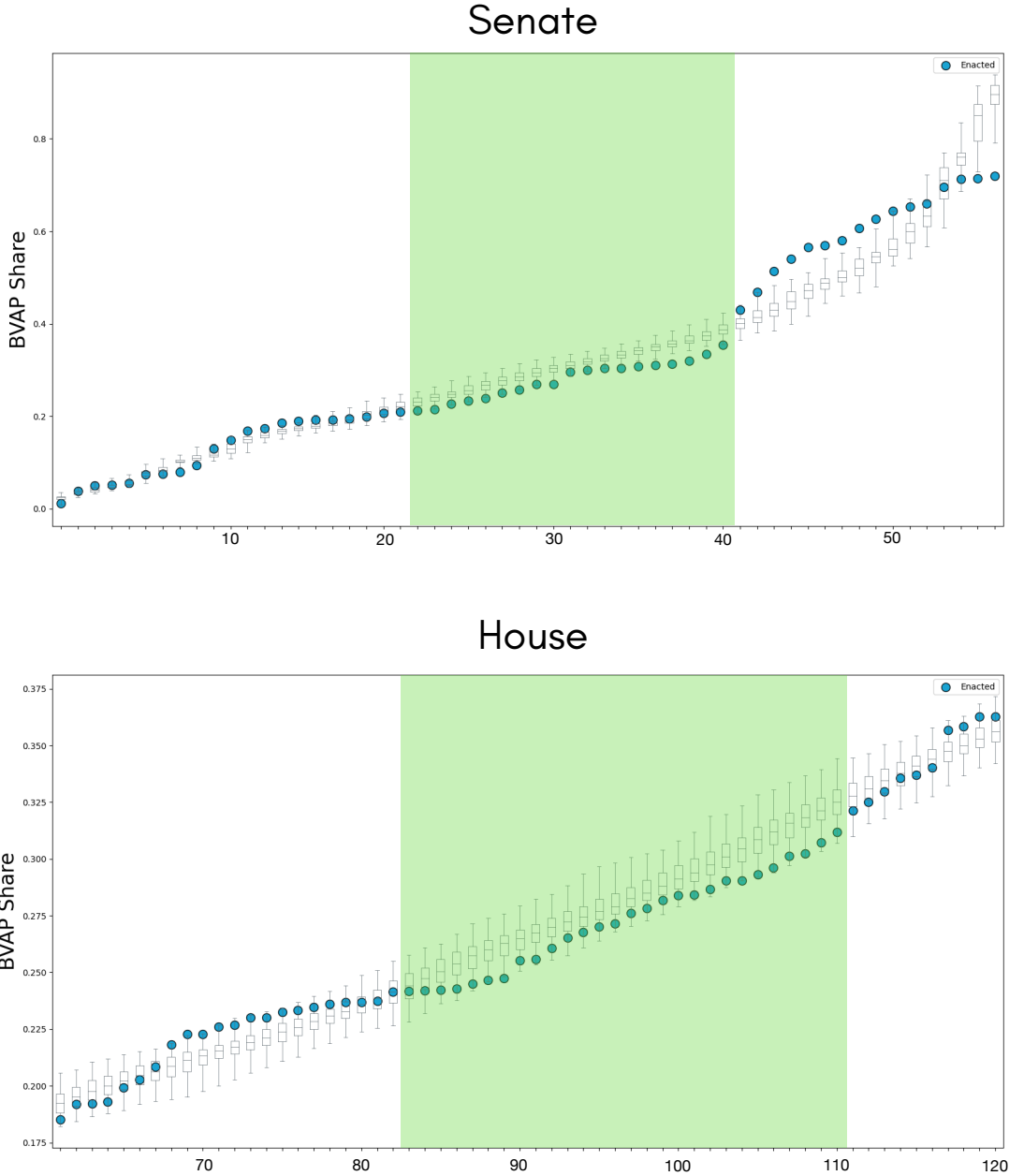


Figure 6: This figure shows boxplots for Senate (top) and state House (bottom; in each, the districts of the plan are arranged from the one with the lowest BVAP share to the one with the highest, regardless of geography. For state House, the middle range of districts is shown. The same signature of cracking is visible here as in the Congressional boxplot.

2.2 Summary discussion of race-versus-party experiments

Simple experiments show that the pursuit of partisan advantage may have been a motivation for map-drawers, but many thousands of examples with even more partisan tilt were found. These alternative examples do not show the marked signs of racial sorting that are found in the enacted plan. In a partisan-motivated plan for a 50-50 state, we would expect cracking in the middle range of districts, as discussed above; if that partisanship is pursued aggressively, we would expect it to extend somewhat above the middle range as the controlling party tries for more districts. This is what we see here.

In order to add a quantitative element to the illustrations provided in the figures above, I selected ten random plans from each Trump-favoring collection shown in the boxplots. For Congress, this makes eleven plans—ten randomized alternatives and the enacted plan. In districts indexed 6-9 (highlighted in Figure 5), the relative position of the enacted plan is 1-1-1-1. This means that in all four districts, all ten random plans had a higher BVAP. These order statistics are not probabilistically independent, because they display correlations that are hard to model precisely. However, if variables were drawn in an independently and identically distributed (i.i.d.) fashion, then the probability of being last of eleven values four times in a row would be less than .00007.

I repeated this demonstration in Senate and House, with ten random plans from the Trump-favoring collection, plus the Morgan alternative plan. With the enacted plan, that makes twelve. In the districts indexed 22-40, the relative position of the enacted plan is 1-1-1-1-1-1-1-1-3-2-2-1-1-1-1-1-1. The probability of being last of twelve options this often, if i.i.d., would be less than 0.0000000000000004. Similarly, in the House districts indexed 83-110, the relative position of the enacted plan is 3-1-1-1-1-1-3-2-3-3-4-4-3-3-3-6-2-1-1-1-1-1-1-1-1. The probability of being last of twelve options this often, if i.i.d., would be less than 0.00000000006.

In addition to these ensemble comparisons, we can find corroborating indications that race was operationalized by the mapmakers by considering other elements of the plan, such as the high numbers of split precincts. The enacted House plan splits 352 state precincts, while the random selection of alternatives split no more than 231. The enacted Senate plan splits 144 state precincts, while the alternatives split no more than 74.⁶ High levels of precinct splitting is of particular note in a race-versus-party analysis, because vote history is not available at a sub-precinct level.

In summary, I find the enacted plan to have properties associated with the cracking of minority voters, suppressing their numbers in a range of districts in a manner that reduces or eliminates their opportunity to elect candidates of choice. This is consistent with a hypothesis that race was used to achieve partisan outcomes in the state's enacted plans.

⁶I am omitting the Congressional comparison, since I did not tune the alternative plans to two-person balance.

References

- [1] MGGG Redistricting Lab, *GerryChain Python Library*. GitHub Repository. github.com/mggg/gerrychain
- [2] Micah Altman and Michael McDonald, *A Half-Century of Virginia Redistricting Battles: Shifting from Rural Malapportionment to Voting Rights to Public Participation*. University of Richmond Law Review **47** (2013), 771–831.
- [3] Daryl DeFord and Moon Duchin, *Redistricting Reform in Virginia: Districting Criteria in Context*. Virginia Policy Review, Vol. 12 No. 2 (2019), 120–146.
- [4] Daryl DeFord, Moon Duchin, and Justin Solomon, *Recombination: A family of Markov chains for redistricting*. **Harvard Data Science Review**, Issue 3.1, Winter 2021.

A Description of methods

Randomized alternative districting plans were made with a Markov chain method called *recombination* has been implemented in a publicly available, open-source Python package called GerryChain since 2018 [1] and whose mathematical properties are surveyed in a peer-reviewed article that appeared in 2021 [4].

The basic step begins with a graph representing the geographical units of Georgia, then fuses two districts chosen at random. We draw a random tree (graph with no cycles) that spans the double-district; next, the tree is cut at an edge that creates two complementary balanced pieces, which become the new districts replacing the ones that were fused. The district generation process enforces that every district has population within a thresholded difference to ideal district size; if the tree has no cut edge leaving sufficiently balanced pieces, then a new tree is drawn. (Districts can have up to 1% deviation in Congressional runs and I studied variants with up to 2% deviation and up to 1.5% deviation in Senate and House runs.) Contiguity is also enforced throughout, as a consequence of the fact that deleting an edge from a tree always leaves two connected components, which ensures that new districts formed in the process are connected. Compactness is highly favored throughout this process, because compact districts have far more spanning trees [4]. All of these steps are performed with no attention to race or partisanship—these are only taken into account later in the procedure.

To choose the random tree, a method called *minimum spanning trees* is employed, using weights that encourage county integrity. Within-county edges are given a random weight in $[0, 1]$ while those between counties receive a weight with a +1 "surcharge." The random tree is chosen by drawing weights from these intervals and then finding the (generically unique) spanning tree of minimum weight. In addition, when that tree is cut to separate new districts, the algorithm first seeks for a between-county edge as the cut, if it is possible within balance constraints. This promotes the selection of spanning trees that restrict to counties in a single connected piece, which will tend to keep counties un-split in the districts. Census blocks were employed as the base unit, and a surcharge exactly like the one described above was used to promote the inclusion of whole precincts.

The method for favoring plans with higher numbers of majority-Black districts (or Trump-favoring districts, respectively) works without any change to the proposal of incremental changes. The only variation is that a weighted coin is then flipped to decide whether to accept a change. If the number of majority-Black or Trump-favoring districts is higher, the change is made with higher probability; if the number decreases, the change may still be accepted, but with lower probability. The parameter controlling this probability is called the *temperature*, and we experiment to find temperature settings that allow for reasonably low rates of rejected proposals. This kind of protocol is standard in MCMC, a leading method in applied statistics, and fits under the umbrella of what are called *heuristic optimization* or *local search* methods.

B Visual comparison

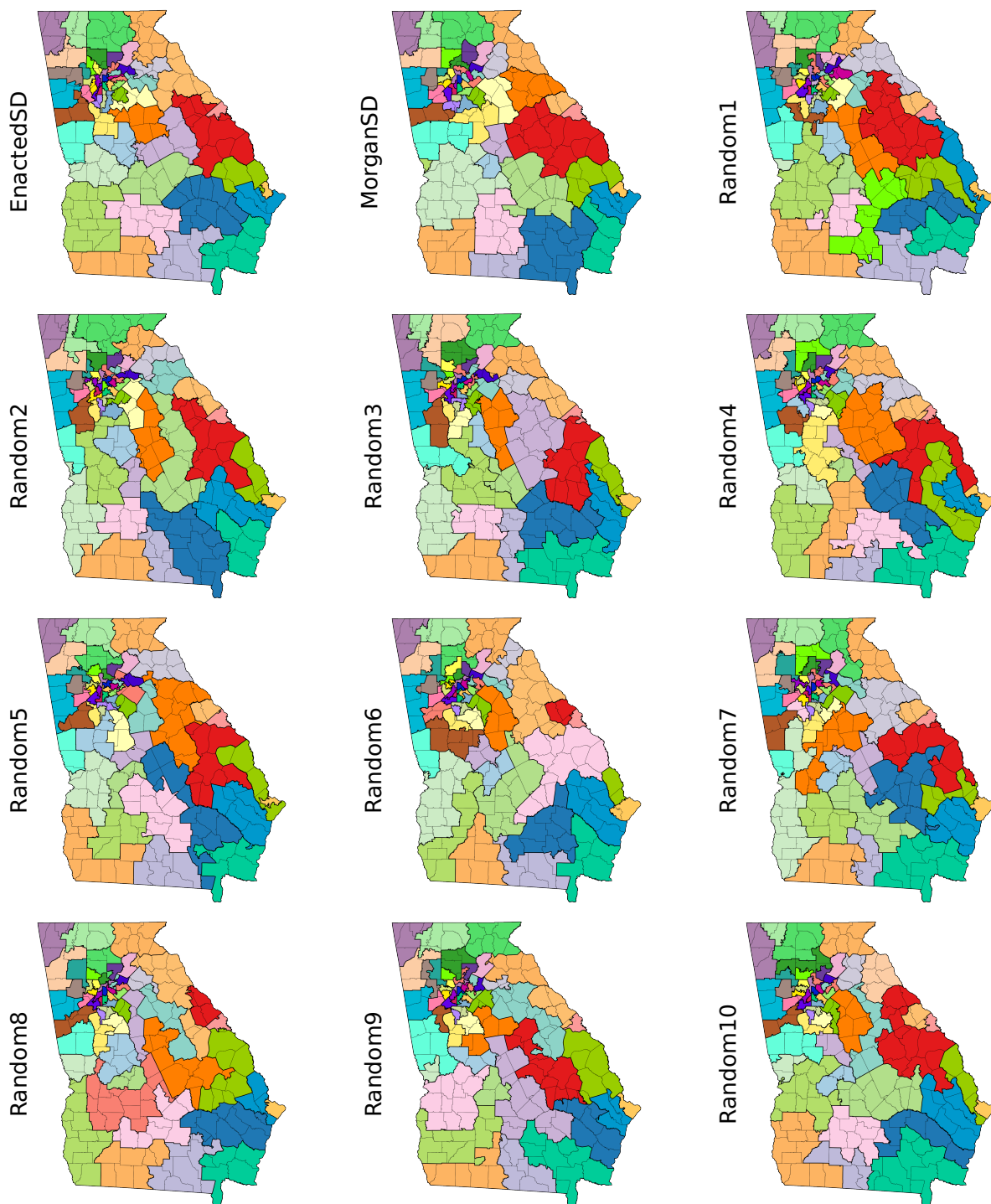


Figure 7: Subsampled Senate plans discussed in §2.2.

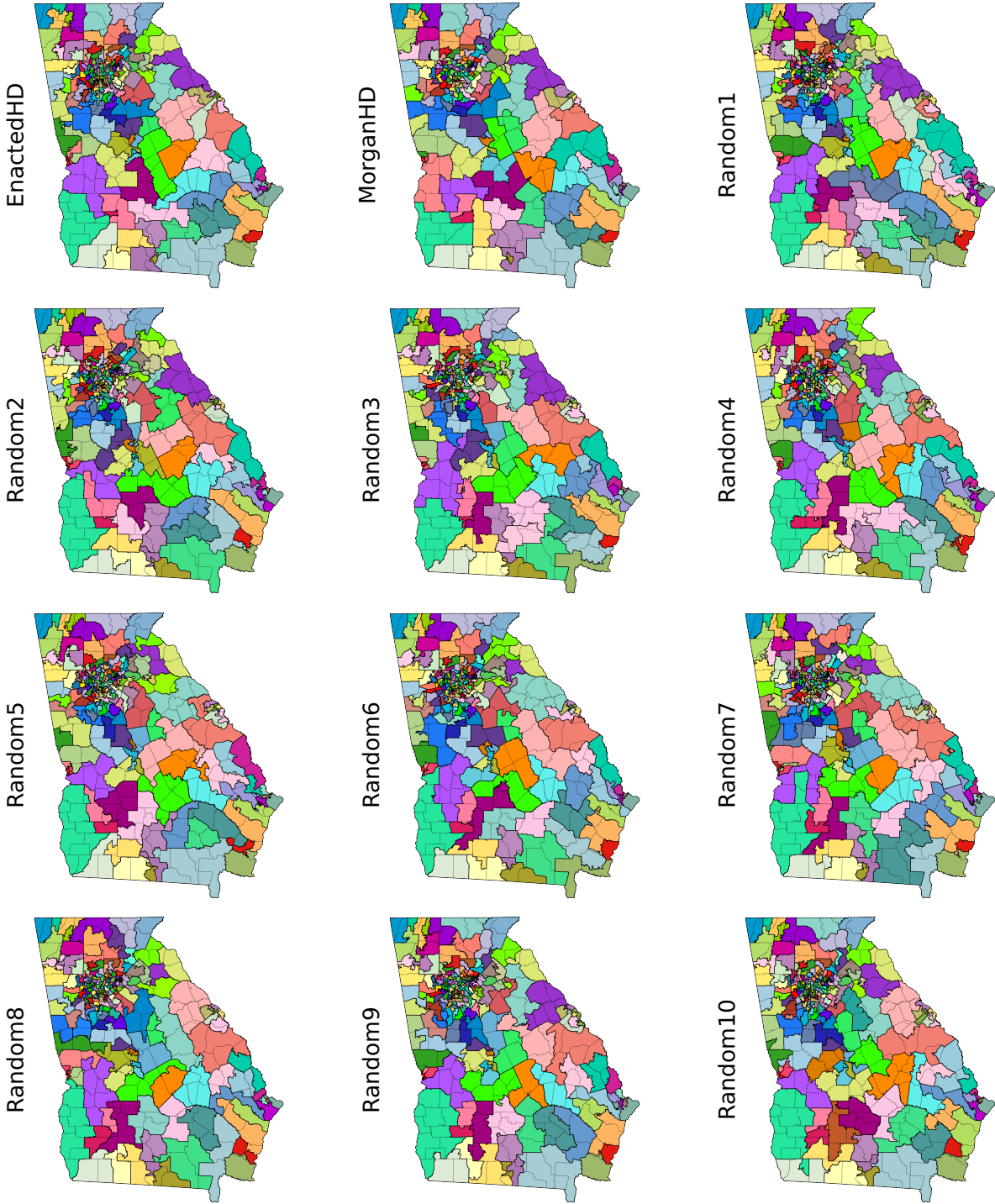


Figure 8: Subsampled House plans discussed in §2.2.

C Minor correction to January 13 Report

In my report filed January 13, 2023, Appendix A on page 81 gives a precise accounting of the construction of racial and ethnic categories throughout the report.

The bullets at the bottom of that page contain minor typographic errors, which are corrected here for clarity and completeness. The corrected version reads as follows:

- Black citizenship ratios are computed by dividing Black-alone CVAP from Table B05003B by Black-alone VAP from Table B01001B.
- Hispanic citizenship ratios are computed by dividing Hispanic CVAP from Table B05003I by Hispanic VAP from Table B03002.
- White citizenship ratios are computed by dividing non-Hispanic White-alone CVAP from Table B05003H by non-Hispanic White-alone VAP from Table B01001H.
- Citizenship ratios for the remaining ("Other") population are computed by dividing CVAP from Tables B05003C (American Indian and Alaska Native alone), B05003D (Asian alone), B05003E (Native Hawaiian and Other Pacific Islander alone), B05003F (some other race alone), and B05003G (two or more races) by VAP from Tables B01001C (American Indian and Alaska Native alone), B01001D (Asian alone), B01001E (Native Hawaiian and Other Pacific Islander alone), B01001F (some other race alone), and B01001G (two or more races).

I reserve the right to continue to supplement my report in light of additional facts, testimony and/or materials that may come to light. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct according to the best of my knowledge, information, and belief.

Executed this 15th day of February, 2023.



Moon Duchin

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

GEORGIA STATE CONFERENCE
OF THE NAACP, et al.,
Plaintiffs,

v.
STATE OF GEORGIA, et al.,
Defendants.

CASE NO. 1:21-CV-5338-
ELB-SCJ-SDG

COMMON CAUSE, et al.,
Plaintiffs,

v.
BRAD RAFFENSPERGER,
Defendant.

CASE NO. 1:22-CV-00090-
ELB-SCJ-SDG

VIDEO DEPOSITION OF JOHN B. MORGAN
March 14, 2023
9:32 a.m.
Taylor English Duma
1600 Parkwood Circle SE
Suite 200
Atlanta, Georgia
Valerie N. Almand, RPR, CRR, CRC
David Ramirez, Legal Video Specialist

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INDEX OF EXHIBITS

PLAINTIFFS;

EXHIBIT	DESCRIPTION	PAGE
Exhibit 1	Expert Report of John B. Morgan, signed 12/05/2022 (Opening Report)	11
Exhibit 2	Expert Report of John B. Morgan, signed 2/15/2023 (Rebuttal Report)	11
Exhibit 3	Expert Report of Dr. Moon Duchin, dated 1/13/2022 (Opening Report)	11
Exhibit 4	Rebuttal and Supplemental Report of Dr. Moon Duchin, dated 2/15/2023	11

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By Mr. Rosenberg Page 6

1 APPEARANCES OF COUNSEL:

2 On behalf of Plaintiff Georgia State Conference of
3 the NAACP (via Zoom):

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15 Also Present: Patrick Hanson, SPLC extern
16 Andrew Stahl, Dechert LLP
17 Legal Video Specialist: David Ramirez

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1 THE VIDEOGRAPHER: We are on the record,
2 and the time is approximately 9:32 a.m. This is
3 the beginning of the videotaped deposition for
4 John Morgan.

5 Would counsel present please identify
6 themselves and who they represent for the record.

7 MR. ROSENBERG: Ezra Rosenberg for the
8 Lawyers' Committee for Civil Rights Under Law
9 representing the plaintiffs in the Georgia NAACP
10 case.

11 MR. TYSON: And I'm Bryan Tyson on behalf
12 of the defendants in the Common Cause in Georgia
13 and NAACP cases.

14 MR. DAVIS: Alex Davis, Lawyers'
15 Committee for Civil Rights on behalf of the NAACP
16 plaintiff group.

17 MR. CANTER: Jacob Canter, Crowell &
18 Moring, on behalf of the NAACP plaintiffs.

19 MR. GENBERG: Jack Genberg from the
20 Southern Poverty Law Center on behalf of the
21 Common Cause plaintiffs.

22 THE VIDEOGRAPHER: Looks like an Andrew
23 Stahl joined. Can you introduce yourself.

24 MR. STAHL: Hi, Andrew Stahl, law clerk
25 at Dechert LLP, for the Common Cause plaintiffs.

1 THE VIDEOGRAPHER: Thank you, Counsel.
2 Will the court reporter please swear in
3 the witness.

4 JOHN B. MORGAN, Esquire
5 being duly sworn, was examined and testified as
6 follows:

7 EXAMINATION

8 BY MR. ROSENBERG:

9 Q. Good morning, Mr. Morgan. I'm Ezra
10 Rosenberg. I represent the plaintiffs in the
11 Georgia NAACP suit. And as you know, we're here
12 to take your deposition in connection with that
13 case and in connection with the Common Cause case.
14 Are you aware of that?

15 A. Yes, that's my understanding.

16 Q. And I know you've been deposed before, so
17 I'm not going to go through all of the
18 instructions. It's a little different than the
19 usual deposition because this is on Zoom. But
20 nevertheless, it's important for you to answer
21 questions I pose orally. Shrugs of the shoulder
22 and nods of the head, while the Zoom camera might
23 pick it up, the court stenographer cannot. So
24 please answer orally. Do you understand that?

25 A. Yes.

Page 6

1 Q. And if you have any question as to my
2 questions, and if you want to make them clearer,
3 please tell me and I will try to do so, okay?

4 A. Okay.

5 Q. Also, this is not meant to be an
6 endurance test other than for me and Mr. Tyson.
7 So if there's anytime that you want to take a
8 break, so long as there's no question on the
9 table, let me know and we'll accommodate you,
10 okay?

11 A. Okay.

12 Q. Is there any reason, medically or in
13 terms of any medicines you might be taking, that
14 you can't testify today fully and accurately?

15 A. None that I'm aware of.

16 Q. Great, thanks. Mr. Morgan, could you
17 tell me what you did to prepare for today's
18 deposition?

19 A. I reviewed my reports. I reviewed
20 Dr. Duchin's rebuttal report, and I met with
21 Mr. Tyson yesterday.

22 Q. And how long did you meet with Mr. Tyson?

23 A. About three -- three and a half hours.

24 Q. And other than your -- when you said your
25 report, do you mean your opening report or your

1 rebuttal report or both?

2 A. Both.

3 Q. And you said you reviewed Dr. Duchin's
4 rebuttal report. Does that mean that you did not
5 review her opening report?

6 A. Not yesterday.

7 Q. When was the last time you reviewed
8 Dr. Duchin's opening report?

9 A. In February, I think.

10 Q. Do -- are you familiar with Dr. Duchin, I
11 assume?

12 A. Yes. I've met her before.

13 Q. Do you consider her an expert in her
14 field?

15 A. I believe so.

16 Q. Have you read any of her other reports in
17 other cases other than in this case?

18 A. No.

19 Q. Have you read any of her published
20 articles?

21 A. No.

22 Q. Have you ever reviewed the complaints in
23 this case?

24 A. Not directly, no.

25 Q. When you say "not directly," what does

1 that mean?

2 A. I have not read the complaints. I have
3 some understanding of what's in the complaints.

4 Q. What is your understanding of what's in
5 the complaints?

6 MR. TYSON: And I'll just object to the
7 extent that calls for privileged conversations.
8 If you have a non-privileged understanding, you
9 can answer. And Ezra, I guess I should have asked
10 earlier. Are you going to reserve objections
11 except as to form and responsiveness?

12 MR. ROSENBERG: Agreed.

13 MR. TYSON: Okay. Sorry, you can answer,
14 John, if you can.

15 A. Well, what I'd say is there's been
16 several cases here. And in this specific case,
17 I'm probably not as aware as I am about the other
18 cases.

19 BY MR. ROSENBERG:

20 Q. And when you say "this specific case,"
21 are you talking about the Georgia NAACP case and
22 the Common Cause case or just the Georgia NAACP
23 case?

24 A. I'm not -- I don't have an understanding
25 of what the differences are between them.

1 Q. And to the extent you have an
2 understanding of what is involved in this case,
3 what is that understanding?

4 A. Well, I just said that I don't think I
5 have a distinction between them. It -- I think
6 that this case may be about creating additional
7 minority districts but not necessarily
8 majority-minority districts.

9 Q. Any other understanding you have about
10 the case?

11 A. As of right now, that probably covers it
12 for the moment.

13 Q. Have you ever discussed this case with
14 anyone other than counsel?

15 A. No.

16 Q. Have you ever discussed this -- do you
17 know who Dr. Alfred is?

18 A. I understand he's an expert in this case.

19 Q. Have you read his report in this case?

20 A. No.

21 Q. Have you ever talked with Dr. Alfred
22 about this case?

23 A. No.

24 Q. Have you read any depositions that have
25 been taken in this case?

1 A. No.

2 Q. Have you read any depositions that had
3 been taken in the Grant case?

4 A. I have not read any depositions taken in
5 the Grant case.

6 Q. Any depositions -- have you read any
7 depositions that were taken in the Pendergrass
8 case?

9 A. No.

10 Q. Let's -- and Alex, maybe you forgot to
11 help me out. To speed things up, we've pre-marked
12 your reports and Dr. Duchin's reports. And let's
13 get them identified for the record, if we can.

14 MR. DAVIS: So for the record, in the
15 marked exhibits folder, marked Exhibit 1 is
16 Mr. Morgan's opening report; marked Exhibit 2 is
17 Mr. Morgan's rebuttal report. Marked Exhibit 3,
18 this is Dr. Duchin's opening report, and marked
19 Exhibit 4 is Dr. Duchin's rebuttal report.

20 (Plaintiffs' Exhibit 1, Plaintiffs'
21 Exhibit 2, Plaintiffs' Exhibit 3, and Plaintiffs'
22 Exhibit 4 marked)

23 BY MR. ROSENBERG:

24 Q. Mr. Morgan, do you have those four
25 reports in front of you?

1 MR. TYSON: So we have, Ezra, his opening
2 report, rebuttal report, Dr. Duchin's rebuttal
3 report. Her primary report is on the printer, but
4 I -- we see it in the marked exhibit folder and
5 can refer to it there, if needed. I'll grab it
6 off the printer at a break.

7 MR. ROSENBERG: Okay. Can -- would you
8 agree that -- and if you want to wait, Brian, till
9 we get the printed version of Dr. Duchin's first
10 report -- but will you stipulate that the reports
11 that have been marked as exhibits are accurate
12 copies of the reports that have been served in
13 this matter?

14 MR. TYSON: Yes, we'll stipulate to that.

15 MR. ROSENBERG: Thank you.

16 THE WITNESS: And for my part of this, I
17 just want to confirm. The reports I have in front
18 of me that are printed do not have the appendices.

19 MR. TYSON: The exhibits, yes.

20 MR. ROSENBERG: Understood. Thank you
21 for clarifying that.

22 BY MR. ROSENBERG:

23 Q. Mr. Morgan, are all of the opinions that
24 you intend to give at trial in this case -- and
25 when I say "this case," I mean both the Georgia

1 NAACP case and the Common Cause case -- contained
2 in your two reports?

3 A. I believe so.

4 Q. Thank you. Are there any changes or
5 corrections or modifications that you wish to make
6 in either your opening report, which is Exhibit 1,
7 or your rebuttal report, which is Exhibit 2?

8 A. Not at this time.

9 Q. Have you undertaken any analyses of any
10 issues relevant to this case -- and again, from
11 now on, whenever I say "this case," I mean both
12 the Georgia NAACP case and the Common Cause
13 case -- that you've not included in any report?

14 MR. TYSON: Object to form.

15 A. I'm not sure I understand what you're
16 asking.

17 BY MR. ROSENBERG:

18 Q. Have you started any analysis on any
19 issue related to this case that is not included in
20 any report?

21 A. I guess I'd say that I've loaded the
22 plans that are referenced in Dr. Duchin's initial
23 report into my redistricting software. In my
24 report, I detailed the reports that I ran and some
25 analyses that I performed and those are in the

1 written report and the appendices. However, I do
2 still have those plans in my computer system, and
3 I haven't -- I haven't recorded any observations
4 other than what's in my written report and the
5 appendices.

6 Q. Thank you. Mr. Morgan, are you familiar
7 with the Supreme Court opinion in Thornburg v.
8 Gingles also?

9 A. I'm aware -- I believe it was from the
10 early eighties, maybe 1982.

11 Q. Do you have an awareness of -- or what
12 the -- that case was about?

13 A. Generally, I believe it has to do with
14 the creation of majority/minority districts.

15 Q. Have you ever read that opinion?

16 A. I think I have at one time read portions
17 of it.

18 Q. How long ago was that?

19 A. That may have been up to 20 years ago.

20 Q. Do you have any understanding whether
21 that case has any bearing on the opinions you
22 intend to give in this case?

23 MR. TYSON: I'll object to the form.

24 A. I'm not sure I understand, the opinion
25 itself have any bearing on my opinions?

1 BY MR. ROSENBERG:

2 Q. Whether the discussions in that case have
3 any bearing on your opinions here?

4 A. I don't know.

5 Q. Are you aware of what are called the
6 Gingles preconditions?

7 A. Yes.

8 Q. What's your understanding of the Gingles
9 preconditions?

10 MR. TYSON: Object to form.

11 A. I haven't seen them listed directly, but
12 I understand that there is a series of questions
13 that are raised in this kind of discussion.

14 BY MR. ROSENBERG:

15 Q. When you say "this kind of discussion,"
16 what do you mean?

17 A. Well, you had mentioned the Gingles
18 preconditions. So if we're talking about those,
19 that there's a series of questions that are
20 related to those preconditions.

21 Q. Can you -- do you know what any of those
22 preconditions are?

23 A. Not off the top of my head.

24 Q. If I had told you that there are three
25 Gingles preconditions, do you have a basis to

1 disagree with me?

2 A. No. I would assume that if there are
3 three you would say that there are three.

4 Q. Thank you. If I said the first
5 precondition is to show that the racial or
6 language-minority group is sufficiently large and
7 geographically compact to constitute a majority in
8 a single-member district, does that sound right to
9 you?

10 A. Generally, that sounds correct.

11 Q. Have you yourself ever undertaken an
12 analysis in any case to show whether or not a
13 racial or language-minority group is sufficiently
14 large and geographically compact to constitute a
15 majority in a single-member district?

16 MR. TYSON: Object to form.

17 A. I don't know that I've done what you
18 might describe as an analysis. I know that I've
19 drawn districts that could be said to satisfy that
20 criteria.

21 BY MR. ROSENBERG:

22 Q. And where did you do that?

23 A. I'm thinking particularly about Indiana.

24 Q. Did you say -- Indiana, did you say?

25 A. Yes.

1 Q. And when was that?

2 A. This would have been in the 1991
3 redistricting.

4 Q. And did you, in fact, draw the
5 majority/minority districts that you believe were
6 sufficiently large and geographically compact to
7 constitute a majority in a single-member district
8 in Indiana?

9 A. In this context, I'm thinking about a
10 district for the statehouse in Fort Wayne,
11 Indiana, yes.

12 Q. Any other instances where you drew a map
13 that showed that a racial or language-minority
14 group was sufficiently large and geographically
15 compact so as to constitute a majority in a
16 single-member district?

17 MR. TYSON: Object to form.

18 A. If I understand your question, I don't
19 know that I would say that it was part of an
20 analysis. I would say, in the practice of drawing
21 maps, I have drawn districts in which the minority
22 communities constituted a majority of a
23 single-member district.

24 BY MR. ROSENBERG:

25 Q. In this case, do you understand that

1 Dr. Duchin's report of January 13th, which has
2 been marked as Exhibit 3 here, addressed the issue
3 of whether or not black and/or Hispanic groups
4 were sufficiently large and geographically compact
5 to constitute a majority in several single-member
6 districts in Georgia's congressional district map
7 and the senate district map and the house district
8 map?

9 MR. TYSON: Object to form.

10 A. I'm looking at the table of contents, and
11 it does reference the demographics of Georgia and
12 Gingles demonstration plan, so it appears that the
13 report does contain that information.

14 BY MR. ROSENBERG:

15 Q. Do you understand that Dr. Duchin's
16 congressional district Alt 1 map creates four
17 black-majority districts, each of which is
18 comprised of a black voting-age population that is
19 sufficiently large and geographically compact to
20 constitute a majority in a reasonably configured
21 congressional district?

22 MR. TYSON: I'll object to form. Ezra,
23 do you want me to turn to a page in the report to
24 have him look at that?

25 MR. ROSENBERG: Sure. What -- you know,

1 I can make it easier. Let me direct your
2 attention to page 25 of exhibit -- do you have the
3 exhibit now, from Brian, in front of the witness?

4 MR. TYSON: Yes. We're looking at
5 Exhibit 3 --

6 MR. ROSENBERG: Dr. Duchin's report,
7 Exhibit 3.

8 MR. TYSON: -- and this is page 25. And
9 just for reference, Mr. Morgan, I believe is also
10 referencing his rebuttal report, which is Exhibit
11 2, but I guess -- no, you're not, okay.

12 THE WITNESS: Yeah. I am referencing
13 that. I'm just trying to clarify if the CD-Alt 1
14 is the same as the CD January 11, or is that a
15 different map?

16 BY MR. ROSENBERG:

17 Q. We're looking at page 25, CD-Alt 1, under
18 Section 7.1 of Exhibit 3.

19 A. Okay, I see that.

20 Q. Do you agree that there Dr. Duchin sets
21 forth four black-majority districts? Do you see
22 under black VAP in the chart?

23 A. Okay. So if I read that correctly, there
24 are four districts that are above 50 percent,
25 District 3, 4, 5 and 13.

1 Q. And do you see, under the black-Hispanic
2 VAP, she says four to six districts? Do you see
3 that, that are 50 percent or more?

4 A. With the combination of what, exactly?

5 Q. Black and Hispanic voting-age population.

6 A. Is that non-Hispanic, black and Hispanic?

7 Q. That is black and Hispanic.

8 A. Is the black metric non-Hispanic-black --

9 Q. The black is --

10 A. -- or any part black?

11 Q. There is no duplication between the black
12 population and the Hispanic population.

13 A. Okay. I see those numbers in the chart.

14 Q. Do you agree that those -- let's -- we
15 can start with the black VAP districts -- meet the
16 first Gingles threshold?

17 MR. TYSON: Object to form.

18 A. I don't know that I can say that. I can
19 see that they are majority black voting-age
20 population.

21 BY MR. ROSENBERG:

22 Q. Do you dispute that any of the
23 congressional black-majority districts created in
24 Dr. Duchin's CD-Alt 1 plan meet the first Gingles
25 threshold?

1 MR. TYSON: I'll object to form. It
2 calls for a legal conclusion.

3 A. I don't know that I have a way to answer
4 that.

5 BY MR. ROSENBERG:

6 Q. Meaning that you don't have a basis to
7 dispute it sitting here today?

8 MR. TYSON: Object to form.

9 A. I don't have a basis to dispute it or
10 confirm it.

11 BY MR. ROSENBERG:

12 Q. Do you agree that each of the four
13 black-majority districts created by Dr. Duchin in
14 her CD-Alt 1 plan is comprised of a black
15 voting-age population that is sufficiently large
16 and geographically compact to constitute a
17 majority in a reasonably configured congressional
18 district?

19 MR. TYSON: I'll object to form, calls
20 for a legal conclusion.

21 A. I see that the numbers in the chart
22 indicate that on that metric the districts in
23 question are above 50 percent.

24 BY MR. ROSENBERG:

25 Q. And do you have a basis to dispute that

1 those four black-majority districts are each
2 comprised of a black voting-age population that's
3 sufficiently large and geographically compact to
4 constitute a majority in a reasonably configured
5 congressional district?

6 A. I have not --

7 MR. TYSON: Object to form.

8 A. I haven't undertaken that analysis.

9 BY MR. ROSENBERG:

10 Q. So you have no basis to dispute it?

11 MR. TYSON: Object to form.

12 A. I don't have the basis to dispute or
13 confirm that.

14 BY MR. ROSENBERG:

15 Q. And if I ask you the same question as to
16 the six black and Hispanic districts in that chart
17 as to whether or not you have a basis to dispute
18 that each of those is comprised of a combined
19 black-Hispanic citizen of voting-age population
20 that is sufficiently large and geographically
21 compact to constitute a majority in a reasonably
22 configured congressional district, do you have a
23 basis to dispute that?

24 MR. TYSON: I'll object to form.

25 A. The information on the chart says black

1 and Hispanic voting age. It doesn't indicate that
2 it's citizen voting age. If it is, it doesn't
3 indicate that on the chart.

4 BY MR. ROSENBERG:

5 Q. Have you read all of Dr. Duchin's report?

6 A. Not word-for-word, no.

7 Q. Are you aware that Dr. Duchin did a
8 separate CVAP analysis in this report?

9 A. I believe I saw that that was undertaken
10 in this report.

11 Q. Having read her report, do you have a
12 basis to dispute that the black and Hispanic --
13 that -- I'm sorry -- that Dr. Duchin created in
14 her CD-Alt 1 six black and Hispanic CVAP districts
15 comprised of a combined black-Hispanic CVAP
16 population that is sufficiently large and
17 geographically compact to constitute a majority in
18 a reasonably configured congressional district?

19 MR. TYSON: Object to form.

20 A. I did not undertake that analysis myself.

21 BY MR. ROSENBERG:

22 Q. So you do not have a basis to dispute it?

23 MR. TYSON: Same objection.

24 A. I don't have a basis to dispute or
25 confirm that.

1 BY MR. ROSENBERG:

2 Q. Okay. Moving to -- if you look at that
3 same page, Section 7.2 on page 25, you'll see that
4 Dr. Duchin has also created 14 -- I'm sorry. Let
5 me actually get back to that.

6 Let me ask you this question: Do you
7 have a basis -- if I were to run through
8 Dr. Duchin's senate plans, under her Effective 1
9 and Effective 2, to dispute whether any of the
10 majority-minority plans, be they black majority or
11 black and Hispanic majority, are comprised of a
12 majority -- or minority population that is a
13 majority for the district that is sufficiently
14 large and geographically compact to constitute a
15 majority in a reasonably configured senate
16 district?

17 MR. TYSON: Object to form.

18 A. I see that she asserts that, and I don't
19 have any basis to not believe that or to support
20 that.

21 BY MR. ROSENBERG:

22 Q. And if I ask you the same question as to
23 the house districts that she creates as either a
24 majority black or majority black and Hispanic
25 districts, do you have a basis to dispute that any

1 one of those districts is comprised of either a
2 black-majority population or a black-Hispanic CVAP
3 population that is sufficiently large and
4 geographically compact to constitute a majority in
5 a reasonably configured house district?

6 MR. TYSON: Object to form.

7 A. I haven't analyzed that myself. And if
8 it's asserted in the report, then I don't have a
9 reason to dispute or confirm that.

10 BY MR. ROSENBERG:

11 Q. Are you aware of the other two Gingles
12 thresholds or preconditions?

13 A. I have some awareness of that, yes.

14 Q. And what's the nature of your awareness?

15 A. That there are other information that is
16 discussed in the Gingles case and is -- and that
17 it may be in this report as well.

18 Q. And what is that other information?

19 A. I don't have that information in front of
20 me.

21 Q. Are you aware of a Gingles precondition
22 that states that the minority population -- that
23 the minority group is politically cohesive,
24 meaning its members tend to vote similarly? Does
25 that sound familiar to you?

1 A. Yes, that sounds familiar.

2 Q. Have you undertaken an analysis in this
3 case relating to whether plaintiffs have met the
4 second Gingles precondition?

5 MR. TYSON: Object to form.

6 A. I have not undertaken that kind of
7 analysis.

8 BY MR. ROSENBERG:

9 Q. Are you aware of what the third Gingles
10 precondition is?

11 A. Not word-for-word, no.

12 Q. How about -- not word-for-word, how about
13 paraphrase?

14 A. I'm sorry. I don't understand the --

15 Q. You said "not word-for-word," so can you
16 paraphrase the third Gingles precondition for me?

17 A. No.

18 Q. If I tell you that the third Gingles
19 precondition is whether the majority votes
20 sufficiently as a block to enable it usually to
21 defeat the minority's preferred candidate, does
22 that sound right to you?

23 MR. TYSON: I'll object to form.

24 A. I don't quite understand what you asked.
25 Could you repeat the question, please?

1 BY MR. ROSENBERG:

2 Q. Sure. If I stated that the third Gingles
3 precondition is whether the majority votes
4 sufficiently as a block to enable it usually to
5 defeat the minority's preferred candidate, does
6 that sound correct to you?

7 MR. TYSON: Object to form.

8 A. Generally, that sounds similar to my
9 understanding.

10 BY MR. ROSENBERG:

11 Q. In this case, have you undertaken an
12 analysis relating to whether plaintiffs have met
13 the third Gingles precondition?

14 MR. TYSON: Object to form.

15 A. I have not undertaken that analysis.

16 BY MR. ROSENBERG:

17 Q. Do you intend to offer any opinion in
18 this case as to whether race predominated in the
19 drawing of any house, congressional, or state
20 districts?

21 MR. TYSON: Object to form.

22 A. I did not offer that type of opinion in
23 my reports to date.

24 BY MR. ROSENBERG:

25 Q. So the answer is, you do not intend to

1 offer any opinion as to whether race predominated
2 in the drawing of any house, congressional, or
3 senate districts?

4 MR. TYSON: Same objection.

5 A. At this point, I haven't undertaken that
6 in my reports. It could be possible that
7 something like that would come up during the
8 context of the trial, but it's not in my report.

9 BY MR. ROSENBERG:

10 Q. Okay. Let's turn to your report, which
11 has been marked as Exhibit 1, and I'd like to turn
12 to page -- give me one second.

13 THE WITNESS: If there's no question now,
14 could I take a short break, please?

15 MR. ROSENBERG: Sure. How long do you
16 want, Mr. Morgan?

17 THE WITNESS: Five to six minutes.

18 MR. ROSENBERG: Sure.

19 THE VIDEOGRAPHER: Stand by. The time is
20 10:03 a.m. We are off video record.

21 (Recess)

22 THE VIDEOGRAPHER: The time is 10:11 a.m.
23 We are back on video record.

24 BY MR. ROSENBERG:

25 Q. Thank you. Mr. Morgan, during the break,

1 did you talk with anybody?

2 A. Yes. I talked with Mr. Tyson.

3 Q. Did you talk with -- about questions I
4 had posed in the deposition?

5 A. No. I asked about what "object to form"
6 meant.

7 Q. Did you discuss anything else related to
8 the deposition?

9 A. No.

10 Q. Before we broke, I had asked you some
11 questions about whether you could dispute that the
12 majority-minority districts created by
13 Dr. Duchin's report and I used the phrase "SD
14 effective" and HD effective." If I -- I'd like to
15 just rephrase it to make it clear.

16 Do you agree that you cannot dispute
17 whether the majority districts created in
18 Dr. Duchin's senate plans as evidenced in her
19 SD-Alt plans and the house plans as evidenced in
20 her HD-Alt plans were comprised of minority
21 populations that were sufficiently large and
22 geographically compact to constitute a majority in
23 a reasonably configured senate district or
24 regional configured house district? Is your
25 answer the same that you're not in a position to

1 dispute that?

2 MR. TYSON: I'll object to form.

3 A. I didn't undertake that analysis, so I
4 don't dispute or confirm that.

5 BY MR. ROSENBERG:

6 Q. Thank you. Now, turning to your report,
7 I'd like to -- which is Exhibit 1. I'd like to
8 draw your attention to paragraph 48 on page 42.

9 A. Okay.

10 Q. And there you say that, My review of the
11 enacted house and senate plans -- this is under
12 the phrase, Conclusion -- My review of the enacted
13 house and senate plans combined with drawing the
14 blind illustrative plans demonstrates the tendency
15 that racial considerations had an effect on
16 district composition and district shapes in the
17 enacted plans.

18 Did I read that correctly?

19 A. Yes.

20 Q. Is that the only opinion that you intend
21 to provide at trial based on your analysis
22 provided in this report, Exhibit 1?

23 A. Well, that is a conclusion at the end of
24 the report. There have been other opinions
25 probably in the report as well.

1 Q. Other opinions that are supportive of
2 that overall conclusion?

3 A. There's numerous opinions in the report.

4 Q. I'm sorry. I could not hear you. Could
5 you repeat that, your answer, please?

6 A. There are numerous opinions in the
7 report.

8 Q. Do any of those opinions support a
9 conclusion other than the conclusion set forth in
10 paragraph 48?

11 A. I haven't considered it in that context,
12 but I believe they would support that conclusion.

13 Q. How long did it take you to perform the
14 analysis that you did in this report and to write
15 the report?

16 A. I don't know, many hours.

17 Q. When you say "many," more than 20?

18 A. Yes.

19 Q. More than 50?

20 A. Probably.

21 Q. More than 100?

22 A. Probably not.

23 Q. Someplace between 50 and 100. And this
24 is the same report that you submitted in the Grant
25 and Pendergrass cases; is that correct?

1 A. Yes, that's my understanding.

2 Q. Now, on page 5 of the report, you say
3 that you were asked to review the house and senate
4 plans; is that correct?

5 A. Yes.

6 Q. You were not asked to review the
7 congressional plan?

8 A. Not in this report.

9 Q. So in this opening report, you undertook
10 no analysis of the congressional plan; is that
11 correct?

12 A. That's correct. I looked at the
13 legislative plans, and I drew some illustrative
14 plans for the house and the senate, and that's
15 what I analyzed in this report.

16 Q. Did you ever try to draw a plan for
17 the -- a map for the congressional plan?

18 MR. TYSON: I'll just object to the
19 extent that calls for any conversations with
20 counsel, if -- you can answer.

21 A. Regarding the congressional plans, I
22 didn't include any plans that I drafted in any way
23 in this report.

24 BY MR. ROSENBERG:

25 Q. But did you try to draw any congressional

1 plan?

2 MR. TYSON: Same objection.

3 A. I didn't do that, and I did not do that
4 in this report.

5 BY MR. ROSENBERG:

6 Q. Did you do that in any report?

7 MR. TYSON: Same objection.

8 A. I don't recall including a congressional
9 plan that I drafted in any report.

10 BY MR. ROSENBERG:

11 Q. To the extent that you drew conclusions
12 as to the relationship between compactness and the
13 drawing of majority-minority districts as to the
14 senate- and house-enacted plans, is it true that
15 you did not draw any similar conclusions as to the
16 congressional plan?

17 A. There's no information about
18 congressional districts in this report.

19 Q. Now, on page 3, paragraph 5, you say, I
20 was asked to draw a blind plan that did not
21 include -- I'm sorry -- that did not consider race
22 or incumbency or past redistricting plans for
23 Georgia. Do you see that?

24 A. Yes.

25 Q. What is a blind plan?

1 A. I used a quote, unquote, blind plan. I
2 think the implication is that it's blind to racial
3 considerations. And as I stated in the report, I
4 did not use racial information in the drafting of
5 this plan.

6 Q. Had you ever drawn such a blind plan
7 before?

8 A. In the context of my work experience,
9 yes, I've drawn plans like this.

10 Q. Where?

11 A. In other states.

12 Q. Which other states?

13 A. North Carolina, South Carolina, New
14 Jersey.

15 Q. Any others?

16 A. There may have been others, but I don't
17 recall them at the moment.

18 Q. In each of those plans, did you include
19 the same factors that you included in this plan?

20 A. I'm not sure I understand the question.

21 Q. Sure. I'll clarify that. Well, before
22 you said that a blind plan is one that does not
23 include racial considerations; is that correct?

24 A. Generally, that's -- generally, that's
25 what was done in this report.

1 Q. Right. And my question is: In the blind
2 plans that you say you drew in North Carolina,
3 South Carolina and New Jersey, did you draw them
4 blind to -- let's start with this: Did you draw
5 them blind to racial considerations, each of those
6 plans?

7 A. Generally, yes.

8 Q. What do you mean by "generally"?

9 A. Just what I said, generally I was blind
10 to racial considerations.

11 Q. When you say generally, does that mean
12 sometimes you were not blind to racial
13 considerations?

14 A. No. That's not what I said.

15 Q. You said "generally." Are -- is your
16 testimony that you -- they were always blind to
17 racial considerations?

18 A. As I recall, yes.

19 Q. Okay. Were they blind to considerations
20 other than race, in addition to being blind to
21 racial considerations?

22 A. In some instances, yes.

23 Q. Okay. Let's start with North Carolina.
24 What considerations, other than race, were the
25 North Carolina plans that you drafted blind to?

1 A. Incumbency.

2 Q. Any other considerations that they were
3 blind to?

4 A. In this context, the previous districts.

5 Q. When you say "this context," do you mean
6 the maps you drew in this case or North Carolina?

7 A. When I say "in this context," I'm
8 referring to the report. So in the report, I
9 mentioned that the previous -- the past
10 redistricting plans were generally not considered.
11 And in North Carolina, that was also the case.

12 Q. Were there any other considerations that
13 the North Carolina plans were blind to other than
14 race, incumbency and past redistricting plans?

15 A. Yes, they did not consider politics as
16 well.

17 Q. When you say "they did not consider
18 politics," what do you mean by that?

19 A. I'm saying I did not look at political
20 data when drafting those plans.

21 Q. Were the maps -- were the blind plans
22 that you drew here also blind to political data?

23 A. I did not look at political data when
24 drafting these plans, so yes.

25 Q. I don't think I saw any place in your

1 report that you said that the maps here were blind
2 to political data. Am I correct that you did not
3 include that in your report?

4 A. I'd have to review the report again.

5 Q. Well, looking at paragraph 5, the second
6 sentence on page 3, you say, I was asked to draw a
7 blind plan that did not consider race or
8 incumbency or past redistricting plans for
9 Georgia. Do you see that?

10 A. Yes.

11 Q. But you say that -- you do not say that
12 you did not consider politics. Is there a reason
13 you left that out?

14 A. In paragraph 4, I mention that I was
15 provided with the election data files used by the
16 Georgia General Assembly the during the
17 redistricting process, as well as the census
18 geography, which is in the next sentence. And I
19 did not say at that time that I used any of that
20 election data.

21 Q. For some reason, I went on mute
22 accidentally.

23 Turning to the plans you drew in South
24 Carolina, did they -- were they also blind to
25 incumbency.

1 A. Sometimes yes, sometimes no.

2 Q. What do you mean by "sometimes yes,
3 sometimes no"?

4 A. I think I drew some plans without
5 knowledge of individual members' addresses. And
6 at a later time, I was given that information.

7 Q. Were those plans also blind to past
8 redistricting plans?

9 A. Not -- not specifically. I think, in
10 that case, I was using the boundaries of the
11 pre-existing districts.

12 Q. Were those plans also blind to past --
13 I'm sorry -- to politics?

14 A. Sometimes, yes.

15 Q. And let's turn to New Jersey. Were those
16 plans also blind to incumbency?

17 A. No. In New Jersey, the residency of the
18 members is tied to a town. And in New Jersey in
19 the legislative maps, it's not permitted to split
20 a town except those towns that are greater than
21 the population of a district. So in that sense,
22 it was usually known what town the incumbent lived
23 in but not the specific address. So I would say
24 that information was available to some extent in
25 New Jersey.

1 Q. And were those plans also blind to past
2 redistricting plans?

3 A. In some cases, yes, in the sense that the
4 configurations were different from the previous
5 redistricting. But in other cases, I would have
6 looked more carefully at the previous
7 redistricting.

8 Q. And were those plans also blind to
9 politics?

10 A. Probably less so. I think that the
11 political information was probably used more
12 directly in those plans.

13 Q. Was it explained to you why you were
14 being asked to draw a blind plan?

15 MR. TYSON: Object to the extent that
16 calls for conversations with counsel. You can
17 answer otherwise.

18 A. I don't know how to answer that. I don't
19 know that I was given a context of why. I knew
20 that I could do this, and so I did this.

21 BY MR. ROSENBERG:

22 Q. Do you have an understanding as to why
23 you were requested not to consider race or
24 incumbency or past redistricting plans?

25 MR. TYSON: Same objection.

1 A. No, I don't know.

2 BY MR. ROSENBERG:

3 Q. So you were just asked to do this, and
4 you did that without understanding why?

5 A. Generally, yes.

6 Q. And who asked you to draw a blind plan
7 that did not consider race or incumbency or past
8 redistricting, just drew the plans?

9 A. The counsel in this case.

10 Q. Is that Mr. Tyson?

11 A. Yes.

12 Q. Anyone else?

13 A. Not that I know of.

14 Q. Did Mr. Tyson request that you -- let me
15 rephrase this.

16 Did Mr. Tyson instruct you otherwise what
17 to include or not include in your blind plan?

18 MR. TYSON: I'll object to that to the
19 extent that calls for conversations with counsel.
20 You can answer otherwise.

21 A. I don't recall specific instructions on
22 some of those other considerations.

23 BY MR. ROSENBERG:

24 Q. Did you make any independent decisions as
25 to what factors to include and to exclude in the

1 blind plans, other than what you were instructed
2 to do?

3 A. I'm sorry. I don't understand that
4 question. Could you repeat it, please?

5 Q. Sure. Did you make any decisions on your
6 own as to what factors to include or to exclude in
7 the blind plans, independent of what you were
8 instructed to do so by counsel?

9 A. Well, as we pointed out here, the -- it
10 never really occurred to me to look at political
11 data, so I didn't look at that. And I don't
12 know -- I don't recall that being a specific
13 instruction.

14 Q. So did you make any decisions as to what
15 factors to include or to exclude, other than what
16 was instructed to you by counsel?

17 A. I think that when I talk about not
18 considering past redistricting plans, I would say
19 that from my work experience, having the
20 boundaries of the existing districts is something
21 that could be done, and it wasn't done in this
22 case. And again, I don't recall a specific
23 instruction on that.

24 Q. Would you have preferred that it be done?

25 A. Not necessarily, no.

1 Q. Prior to your -- beginning your drawing
2 of your illustrative maps, how would you describe
3 the depth of your knowledge as to the factors that
4 map drawers typically take into consideration
5 specifically when dealing with Georgia?

6 A. I would say --

7 MR. TYSON: Object to form.

8 A. I would say I have an understanding of
9 redistricting in Georgia. I've done this 20 years
10 ago in conjunction with the minority in the house
11 and the senate in 2001 and 2002. I've done a lot
12 of work in Georgia over many years, so I believe
13 that I have a fair understanding of Georgia.

14 BY MR. ROSENBERG:

15 Q. When you say you "have a fair
16 understanding of Georgia," do you have an
17 understanding of Georgia's geography?

18 A. Yes, I do.

19 Q. At what level?

20 A. I don't understand the question.

21 Q. Well, do you have a knowledge of
22 Georgia's geography at the county level?

23 A. Yes, I do.

24 Q. At the municipal level?

25 A. Generally, yes.

1 Q. And when you say "generally, yes," could
2 you please describe the nature of your knowledge
3 of Georgia's municipalities.

4 A. I've personally traveled extensively
5 through Georgia. I've also looked at census
6 boundaries, municipal boundaries. I've done
7 redistricting work and election-analyses work and
8 demographic-analyses work in Georgia. I'd say I
9 have a pretty strong understanding of Georgia
10 municipalities and counties.

11 Q. And when you say you "have a pretty
12 strong understanding of Georgia municipalities"
13 and you mentioned "demographic analyses," do you
14 have a pretty strong understanding of the racial
15 and ethnic demographics of Georgia at the
16 municipal level?

17 A. I have a historical approach to that, so
18 I'm aware of what's existed in the past and
19 sometimes as the cases -- I'm sorry, not cases --
20 but as the circumstances allow for me to review
21 demographic data from the census, I can -- I have,
22 and can look at that.

23 Q. And do you have an understanding of where
24 different racial and ethnic populations live in
25 Georgia?

1 A. In general, yes. But since I've looked
2 at this over many decades, I'm aware that this
3 information changes from decade to decade and year
4 to year.

5 Q. Do you have an understanding of the
6 racial demographics in terms of where different
7 racial and ethnic groups live in Georgia
8 currently?

9 A. Somewhat, yes.

10 Q. When you say "somewhat," what do you
11 mean?

12 A. Just what I said, somewhat. I have a
13 somewhat understanding of that.

14 Q. And what does somewhat mean? Do you
15 consider it a thorough understanding, a
16 not-thorough understanding? What do you mean?

17 A. I just mean that there's a difference
18 between looking at specific data on a map when I'm
19 drawing a map and just having a general idea of,
20 you know, some area has a higher concentration of
21 minority population than some other area.

22 Q. So you look -- would you -- and would it
23 be fair to say that you are aware that certain
24 areas in Georgia have higher populations -- higher
25 populations of certain racial groups than other

1 areas of Georgia do?

2 A. Yes, of course.

3 Q. And did you use that knowledge when you
4 were drawing the maps?

5 A. No, I specifically did not.

6 Q. Did you -- are you certain that you did
7 not allow your knowledge of Georgia's demographics
8 to creep into your preparation of the illustrative
9 maps?

10 A. Generally, I would say I did not allow
11 that knowledge to be part of this plan-drafting
12 process.

13 Q. And when you say "generally," are you
14 saying always?

15 A. Yes.

16 Q. Now, do you know whether when drawing the
17 plans, the map drawers who drew the plans for the
18 Georgia legislature, did or did not consider race?

19 A. I don't have any firsthand knowledge of
20 that, but it would surprise me if they didn't
21 consider race.

22 Q. And why would it surprise you?

23 A. My experience in previous redistricting
24 has indicated that the Georgia legislative groups
25 that I've worked with would have looked at race at

1 some point in the redistricting process.

2 Q. And do you have any understanding as to
3 why they would have looked at race at some point
4 in the redistricting process?

5 A. Well, 20 years ago, it would have been
6 required under the pre-clearance process under
7 Section 5, for certain. At this time, I
8 understand that there are Section 2 considerations
9 that the legislature would probably have had to
10 dealt with -- deal with.

11 Q. Have you spoken with anyone who was
12 involved in the map-drawing process for Georgia in
13 this round of redistricting?

14 A. No.

15 Q. Has anyone told you any facts as to
16 whether and to what extent the map drawers did or
17 did not consider race in their map drawing in
18 Georgia in this redistricting round?

19 A. Nothing specific was told to me.

20 Q. When you say nothing specifically, was
21 something generally told to you?

22 A. Nothing was told to me.

23 Q. Now, you used Maptitude to draw your
24 plan; is that correct?

25 A. That's correct.

1 Q. And what data layers are available in
2 Maptitude to you?

3 A. The Maptitude has a full suite of census
4 data. It would be counties; it would be places or
5 municipalities, county subdivisions, census
6 blocks, rivers, other geographic features, Native
7 American tribal lands. There would be railroads
8 and roads, things along those lines. All that
9 would be available.

10 Q. Was -- or did the Maptitude program you
11 use have demographic data available to it?

12 A. Yes.

13 Q. Including data as to racial and ethnic
14 demographics?

15 A. Yes. But as I stated in my report, I did
16 not use that information.

17 Q. The Maptitude that you used, was that the
18 same Maptitude data that the legislature used to
19 draw its maps?

20 A. My understanding is that that is correct;
21 that it was the Maptitude data, which includes the
22 census data. It's from the same source as the
23 census. In addition, there was election data that
24 was available to me, but I did not use that in
25 drafting the plans in this report.

1 Q. And was that the Maptitude with the
2 August 2021 data updated titled, P.L. 94-171; do
3 you know?

4 A. I'm not sure what the vintage of that
5 data was. It was provided to me by counsel.

6 Q. Do you have an understanding as to why
7 you were asked not to consider incumbency?

8 A. I don't know that I stated that there was
9 a reason for that.

10 Q. And when you say not considering
11 incumbency, what do you mean by that?

12 A. I mean I did not look at the residences
13 of the incumbent members that I had access to.

14 Q. Do you have an understanding as to
15 whether the Georgia map drawers applied -- strike
16 that.

17 Is it your opinion that protecting
18 incumbents is a traditional districting principle?

19 A. Generally speaking, that would be
20 something that I would consider, yes.

21 Q. And turning your attention to page 8,
22 paragraph 19 of your report, Exhibit 1. Do you
23 see you say, In my experience, protecting
24 incumbents, including preserving cores of
25 districts, is a traditional districting principle.

1 Continuity of district representation is a
2 traditional districting factor. Voters and
3 residents establish relationships with their
4 elected representatives. Did I read that
5 correctly?

6 A. No. You didn't read it correctly, but I
7 understand the gist of what you said.

8 Q. Oh, what did I miss?

9 A. You substituted "districting" for
10 redistricting in two cases.

11 Q. Oh, I'm sorry. Well, with that
12 correction, is that -- did I read it correctly?

13 A. I understand what you're trying to say,
14 and I see what I've written in the report, yes.

15 Q. Is it your opinion that protecting
16 incumbents and preserving cores of districts are a
17 one and the same principle?

18 A. No. They can be different.

19 Q. Is it your opinion that incumbents have a
20 right to be protected from losing elections as
21 part of the redistricting process?

22 A. I don't understand the context of "a
23 right" in this situation.

24 Q. Do you have an understanding as to how
25 the Georgia map drawers applied, if they did at

1 all, the districting principle of incumbent
2 protection in their map drawing?

3 A. I'm not aware of what the legislative
4 process used.

5 Q. If they did apply the districting
6 principle of protecting incumbents, could that
7 have affected compactness scores?

8 A. I didn't undertake that analysis. I
9 suppose it's possible.

10 Q. What do you mean by the phrase that you
11 "did not consider past redistricting plans"?

12 A. Generally in this context, I would say
13 that I'm referring to the district boundaries of
14 the previous plan, the plan that was in force
15 before the 2021 redistricting.

16 Q. And is not considering past redistricting
17 plans the same as not preserving existing
18 districts, which is a phrase I think you used on
19 page 17?

20 A. They're similar. I don't think they're
21 exactly the same.

22 Q. How do they differ?

23 A. In some contexts, you would look at the
24 physical boundary of the district and you could
25 compare the boundary to another proposed district.

1 But there's also the issue of core constituencies
2 in the sense of, you know, what's the -- what's
3 the -- what really makes a district a district.

4 So in some cases, it might have a
5 slightly different geographic boundary and could
6 look very different, but the core might be the
7 same, in the sense that it's a Macon district with
8 a different county than the existing district.
9 But it's still a Macon-focused district, as an
10 example.

11 Q. And that -- when you talk about core --
12 the concept of core that you just mentioned, is
13 that the concept of core retention?

14 A. Generally speaking, that's one way to
15 measure it is to talk about core retention, yes.
16 But in my experience in working with legislators,
17 it doesn't always mean population. It may also
18 mean political context. Somebody may consider a
19 town to be a core, and I've seen circumstances
20 where an incumbent or legislator is very specific
21 about a town or an area of the district. Even
22 though population-wise, it might not be
23 significant in terms of its size or in terms of
24 its perceived political effectiveness or
25 importance.

1 But to that incumbent, the incumbent
2 would consider that a core of their district. And
3 so in that sense, it's a little different from a
4 mechanical measurement of population retention
5 from a previous district.

6 Q. And do plans, in terms like whether or
7 not they adhere to the concept of core retention,
8 do you look at the percent of population that has
9 been shifted in the new plan as compared to the
10 benchmark plan?

11 A. Yes. That's generally something I would
12 look at.

13 Q. And do you have any metrics as to what is
14 an appropriate level of core retention for a plan
15 overall?

16 A. No, I don't. I would say that there's a
17 lot of input on that information. And, again,
18 when we talked about the difference between a core
19 constituency and incumbent protection, I could
20 imagine a situation where an incumbent is in a
21 district, but the district has changed so much
22 that the incumbent would be at a disadvantage in
23 that district.

24 Q. So there, there would be a tradeoff that
25 the map drawers might do in terms of either

1 protecting the incumbent or protecting the -- or
2 retaining the core?

3 A. Yes. In that hypothetical circumstance,
4 yes.

5 Q. And if you were looking at a map
6 statewide and saw that 10 percent of the
7 population had been shifted to new districts,
8 would that raise any questions in your mind as to
9 whether or not the map drawers adhere to the
10 traditional redistricting principle of core
11 retention?

12 MR. TYSON: Object to form.

13 A. I really don't know. I'd have to look
14 more carefully at that information.

15 BY MR. ROSENBERG:

16 Q. What if it was 30 percent of the
17 population? Would that raise any concerns?

18 MR. TYSON: Object to form.

19 A. Again, I don't know. I'd have to look at
20 the circumstances in each case. For example, the
21 populations shift between the previous decade and
22 the current decade. And so, for example, you
23 might have an area of the state which would have
24 to have a lot of changes. And so in that area, it
25 might be pretty standard to have a higher amount

1 of change from the existing districts because of
2 the population shifts.

3 BY MR. ROSENBERG:

4 Q. If -- do you have an understanding as to
5 whether the map drawers in Georgia in this
6 redistricting cycle applied the traditional
7 redistricting principle of core retention in their
8 map drawing?

9 A. I don't know specifically.

10 Q. If they did, could that have affected
11 their compactness scores?

12 A. I don't know. I didn't conduct that
13 analysis. I suppose it's possible.

14 Q. And do you have an understanding as to
15 whether the map drawers in Georgia in this
16 redistricting cycle applied to a traditional
17 districting principle of preserving existing
18 districts?

19 A. I believe that's the case, but I don't
20 know specifically.

21 Q. And if they did, could that have affected
22 their compactness scores?

23 A. I suppose that's possible, but I didn't
24 conduct that kind of analysis.

25 Q. Now, on page 3, paragraph 5, again, you

1 state that your -- this plan, referring to your
2 blind plan, did consider other traditional
3 redistricting principles. Do you see that?

4 A. Yes.

5 Q. What other traditional redistricting
6 principles did you consider in arriving at the
7 conclusions in the report?

8 A. Generally, they would include things like
9 the split counties, precincts, and sometimes
10 localities, such as cities. Also, for example,
11 general concepts of compactness. Also, I would
12 consider the communities of interest that I'm
13 aware of and that makes sense to me from my
14 experience and my hands-on working with the data
15 for Georgia.

16 Q. Are any traditional districting
17 principles more important than any other
18 traditional districting principles?

19 A. I don't know how to answer that. I
20 suppose it depends on the jurisdiction locality as
21 to priorities placed by the enacting bodies.

22 Q. Let me put the question this way: Is
23 there a hierarchy of traditional districting
24 principles?

25 A. I don't know. It would depend very much

1 on the jurisdiction.

2 Q. Are you aware of Georgia's -- the Georgia
3 legislative criteria for assessing district plans?

4 A. I don't know about assessing district
5 plans, but I was given the guidelines that my
6 understanding the -- were produced for the
7 redistricting process.

8 Q. When you say you were given guidelines,
9 who gave them to you?

10 A. Counsel, in this case.

11 Q. Did you -- were they given to you prior
12 to your preparing your report?

13 A. They were given to me for the -- for
14 hearings in this case before reports were written.

15 Q. Did you consider the Georgia legislative
16 criteria for assessing district plans in the
17 preparation of your plans?

18 A. Again, I'm not sure I understand the
19 context of using the word assessing. The
20 guidelines were written down, and I looked at them
21 at one point.

22 Q. Well, you're -- I'd like to turn your
23 attention to page 20 of Dr. Duchin's report, which
24 is Exhibit 3 in this deposition.

25 A. Okay. Just a moment, please.

1 Q. Sure.

2 A. Okay. You said page 20; is that correct?

3 Q. Page 20, yeah.

4 A. Okay.

5 Q. Are you there?

6 A. I'm here.

7 Q. Okay. I meant there on the paper. I
8 know I can see you on --

9 A. Yes.

10 Q. Do you see where Dr. Duchin sets forth
11 what she says are the general principles for
12 drafting plans? Do those look familiar to you as
13 Georgia's general principles for drafting plans?

14 A. Generally, yes. They look similar to
15 what I've seen.

16 Q. And looking at that, can you tell me
17 whether you applied those principles in your
18 drafting of the blind plan?

19 MR. TYSON: Object to form.

20 A. Again, I drew the plan. I didn't
21 evaluate whether the plan would satisfy all those
22 requirements.

23 BY MR. ROSENBERG:

24 Q. Looking at those requirements, do you
25 agree that some of them are mandatory and some of

1 them are not mandatory?

2 MR. TYSON: Object to form.

3 A. I'd have to look more carefully at it.
4 Let me see. Yes, it appears that there's
5 different language in some of the statements.

6 BY MR. ROSENBERG:

7 Q. And by "different language," general
8 principle number 1 uses the word "should." Number
9 2 uses the word "should." Number 3 uses the
10 phrase "will comply." Number 4 uses the phrase
11 "will comply," and number 5 uses the phrase "shall
12 be composed," and number 6 uses the phrase "shall
13 be composed." Do you agree that those are written
14 in mandatory form?

15 MR. TYSON: Object to form.

16 A. Again, they're different languages. It's
17 implied that there's -- that 3 and 4 and maybe
18 some others could be taken to be mandatory, yes.

19 BY MR. ROSENBERG:

20 Q. And on the other hand, number 7 says the
21 committee should consider as opposed to saying
22 "should be drawn." And that's -- and that is not
23 the mandatory language; do you agree?

24 MR. TYSON: Object to form.

25 THE WITNESS: I'm sorry. Did -- was

1 there an objection to that? I didn't -- I did --
2 did you --

3 MR. TYSON: I'm sorry, I was trying to
4 say "object to form." My voice is coming in and
5 out, so I apologize for that.

6 THE WITNESS: Okay.

7 MR. TYSON: You can answer, John.

8 THE WITNESS: Sure.

9 A. On number 7, it says "should consider."
10 Yes, I see that.

11 BY MR. ROSENBERG:

12 Q. And that is not mandatory as compared to
13 that a district should be drawn or will comply.
14 You see a difference in that language?

15 A. There's a difference in that language,
16 yes.

17 Q. And number 8, it says, Efforts should be
18 made to avoid the unnecessary pairing of
19 incumbents, and you agree that is not as strong
20 language as saying that it should be drawn or will
21 comply; is that right?

22 A. The language is different. Yes, it's not
23 as strong.

24 Q. Turning to a different issue, in state
25 legislative maps, what's your understanding as to

1 the reasonable population deviations between and
2 among districts?

3 A. It varies a lot. In my experience, some
4 states have very strict deviation requirements and
5 other states have very wider-ranging deviation
6 requirements. For example, my understanding is
7 Nevada, it's probably .25 of a percentage point or
8 .5 of a percentage point. Whereas in North
9 Carolina, it's mandated to go all the way up to
10 plus or minus 5 percent.

11 I'm sorry. If you asked a question, I
12 didn't hear it; you were muted.

13 BY MR. ROSENBERG:

14 Q. My computer was -- just went on mute
15 again. Do you have an understanding as to whether
16 Georgia has any such mandatory requirements as to
17 population deviation other than what's set forth
18 in general principle number 2?

19 A. I -- my understanding is that, if those
20 guidelines have a deviation, it's contained in the
21 text of the guidelines.

22 Q. And by that, you're referring back to the
23 general principles for drafting plans that we
24 discussed a few minutes ago?

25 A. I believe so.

1 Q. Are you aware as to whether or not there
2 is any strict numerical guideline in those
3 principles?

4 A. I don't recall seeing one.

5 THE WITNESS: If there's no question
6 posed, could we take a break, please?

7 MR. ROSENBERG: Sure.

8 THE VIDEOGRAPHER: Stand by. The time is
9 approximately 10:57 a.m. We are off video record.

10 (Recess)

11 (Patrick Hanson joined)

12 THE VIDEOGRAPHER: The time is 11:06 a.m.
13 We are back on video record.

14 BY MR. ROSENBERG:

15 Q. Mr. Morgan, during the break, did you
16 discuss the deposition with anyone?

17 A. I asked Mr. Tyson if objections are like
18 instant replay in sports. Like, is there a
19 limited number of them, or do you just get to say
20 that anytime. I don't know.

21 MR. ROSENBERG: Well, I'm very interested
22 in Mr. Tyson's answer to that question.

23 MR. TYSON: I told him that there was no
24 limits; that I've been in a deposition once where
25 I had opposing counsel object to every question I

1 asked. That wasn't fun, so I'm trying not to do
2 that.

3 MR. ROSENBERG: Appreciate it.

4 THE WITNESS: Yeah, and also, I just
5 wanted to make sure that the objection was heard
6 the time that it sounded soft.

7 MR. ROSENBERG: Appreciate that,
8 Mr. Morgan.

9 BY MR. ROSENBERG:

10 Q. Mr. Morgan, a few minutes before we broke
11 you mentioned the fact that you've done some
12 election-analyses work in Georgia. Could you tell
13 me what the nature of that work was?

14 A. Sure. I did work for Congressman
15 Kingston when he was running for United States
16 senate. I've previously worked with many
17 congressional candidates and congressmen over the
18 years. I've done analyses for Georgia legislative
19 candidates in the state senate. I did a little
20 bit of analyses for a special election for a
21 congressional seat a few years ago. So yeah, over
22 the years, I've done lots of analyses of Georgia.

23 Q. Excuse me -- when were -- and was all of
24 that work for candidates who were Republicans or
25 Democrats, or was there a mix?

1 A. Generally speaking, it would be for
2 Republicans, although I've worked with Democrats
3 in the legislature in redistricting 20 years ago.

4 Q. And when you say you've worked with
5 Democrats in the legislature who were Democrats 20
6 years ago, what was the nature of the work that
7 you did with them?

8 A. There was some of the -- as I recall at
9 that time, some of the Democratic senators were
10 working in concert with Senator Sonny Perdue on
11 some issues, and that included redistricting. So
12 in that context, I met with some of the incumbent
13 Democrat members who wanted to discuss
14 redistricting.

15 Q. And in turning back to the
16 election-analyses work that you did for
17 Congressman Kingston and for congressional
18 candidates and for state senate candidates, what
19 was the nature of that election-analyses work?

20 A. Generally speaking, I would do election
21 analyses focused on winning an upcoming election,
22 either a primary or a general election. So in the
23 case of Mr. Kingston, it was the primary election
24 for the US senate in 2014. I've worked with
25 Congressman Newt Gingrich over the years, and I've

1 worked with dozens of legislative candidates,
2 either in one-on-one for elections, and also
3 sometimes I would have met with candidates for
4 another job that I was involved in at the national
5 level.

6 Q. In the context of that work, did you ever
7 analyze percentage of racial populations that were
8 relevant to the elections you were looking at?
9 Any kind of racial demographic work at all?

10 A. In the context of the overall election
11 modeling, I would have looked -- I generally would
12 have looked at some demographic data, which in
13 some cases, would include racial data, education
14 levels. I would look at income levels and, again,
15 that would be part of a profile that I would look
16 at.

17 Q. And what was the relevance of the racial
18 data to your election analyses?

19 A. Usually, the candidates or members would
20 be interested to know in a particular district
21 what the racial composition was. It would be the
22 equivalent of a single slide of, you know, maybe
23 50 or 70 slides.

24 Q. Did you ever undertake a racial-polarized
25 voting analysis in connection with your

1 election-analyses work?

2 A. Not in Georgia.

3 Q. Where did you do some of that?

4 A. I provided an analysis to a Section 5
5 submission in Guilford County, North Carolina.

6 Q. Do you have any opinions as to whether
7 races -- or as to whether there is
8 racially-polarized voting in Georgia?

9 MR. TYSON: Object to form.

10 A. I wasn't asked to analyze that.

11 BY MR. ROSENBERG:

12 Q. All right. So you have no opinion?

13 MR. TYSON: Same objection.

14 A. I would say, in my previous experience,
15 it would not surprise me to find that there is
16 racially-polarized voting.

17 BY MR. ROSENBERG:

18 Q. And what do you mean by it would not
19 surprise you to find racially-polarized voting?
20 What would you not be surprised by?

21 A. I believe there's been evidence of that
22 in the past, and it wouldn't surprise me if
23 there's still some evidence of that today.

24 Q. In that, black voters vote cohesively for
25 candidates of choice and then white voters vote

1 cohesively for different candidates of choice?

2 MR. TYSON: Object to form.

3 A. Something along those lines.

4 BY MR. ROSENBERG:

5 Q. I'd like to ask you just a few questions
6 about compactness? I -- you used the Reock and
7 Polsby-Popper scores because they're available in
8 multitude -- in Maptitude, right?

9 A. That's one of the reasons, yes.

10 Q. What are the other reasons?

11 A. In my experience, I've seen those metrics
12 used in court cases.

13 Q. Are you familiar with the cut-edges
14 approach to assessing compactness?

15 A. No.

16 Q. You've never heard of that?

17 A. I've never heard of that.

18 Q. Now, I think you talk in your report
19 about eyeballing compactness. Is there an eye
20 test for determining compactness, an eyeball test?

21 A. I'm sorry. I don't believe that I said
22 anything like that in my report.

23 Q. Let me see if I can find it quickly. If
24 not, we'll come back to it. We'll come back to
25 that.

1 Now, you talk in your report about
2 following civic boundaries as being a traditional
3 districting principle. Do you recall that?

4 A. Could you show me that in the report?

5 Q. Sure. I think that's in that -- well,
6 here -- let me see, paragraphs 17. Yeah,
7 paragraph 17, page 7, second sentence, In my
8 experience, some of these factors are referred to
9 as traditional redistricting principles, such as
10 population equality, following civic boundaries.
11 Do you see that?

12 A. I do, yes.

13 Q. What do you mean by that?

14 A. In this context, it would include
15 municipalities, sometimes precinct lines, and
16 certainly counties.

17 Q. And do you have an understanding as to
18 whether the Georgia map drawers in this
19 redistricting cycle applied this traditional
20 districting principle in their map drawing?

21 A. I don't know, specifically.

22 Q. If they did, could that have affected the
23 compactness scores?

24 MR. TYSON: Object to form.

25 A. I don't know. I didn't look at that,

1 specifically. I would say that, in my experience,
2 map drawers would often look at civic boundaries
3 and take that into consideration.

4 BY MR. ROSENBERG:

5 Q. And could that affect compactness scores?

6 MR. TYSON: Same objection.

7 A. I don't know. It's possible.

8 BY MR. ROSENBERG:

9 Q. In that same paragraph, you refer to
10 Judge Jones's recognition of some of these
11 traditional redistricting principles, including
12 maintaining communities of interest. Do you see
13 that in paragraph 17? And then you also talk
14 about communities of interest in paragraph 18. Do
15 you see that?

16 A. Yes.

17 Q. Do you have an understanding as to
18 whether the Georgia map drawers applied that
19 traditional districting principle in their map
20 drawing in this redistricting cycle?

21 A. I don't know. In my experience,
22 legislators often look at things like that.

23 Q. If they did, could that have affected
24 their compactness scores?

25 MR. TYSON: Object to form.

1 A. I don't know.

2 BY MR. ROSENBERG:

3 Q. Did you look at communities of interest
4 and take communities of interest into
5 consideration in your drawing of your blind plan?

6 A. Generally speaking, yes, communities as I
7 understood them.

8 Q. What do you mean by "generally speaking"?
9 Does that mean you always did or sometimes did?

10 A. I would say that there can be differences
11 or tradeoffs. For example, a municipal boundary
12 for a city or town -- a municipality, that is, you
13 know, might have a -- has -- it has a specific
14 boundary. However, the precinct boundaries might
15 encapsulate that area. So if you were to draw by
16 the municipal boundary, you would have a different
17 district shape than if you were to draw by the
18 precinct boundaries, which contain the municipal
19 boundaries.

20 Q. Right. But we're talking about
21 communities of interest. Is that the same thing
22 as precinct boundaries and municipal boundaries?

23 A. In some circumstances, I think so, yes.

24 Q. But in some circumstances not?

25 A. I -- there would be circumstances where I

1 could imagine that not being the case.

2 Q. As a matter of fact, in paragraph 18 of
3 your report, you say that communities of interest
4 often include things based on socioeconomic
5 factors, transportation corridors, watersheds,
6 mountain and valley communities, urban, suburban
7 and rural areas and school-attendance zones,
8 right?

9 A. Yes. That -- those are things that could
10 be considered communities of interest in my
11 experience.

12 Q. And you also say that geographic features
13 can define some communities of interest and that
14 communities of interest can also include military
15 areas; is that correct?

16 A. Those are some examples that I gave in my
17 report, yes.

18 Q. And so those examples are not necessarily
19 the same as precinct lines or municipal lines or
20 county lines, correct?

21 A. That's correct.

22 Q. Do you know whether or not -- well,
23 strike that.

24 Did you take those considerations into
25 effect in your drawing of your plans?

1 A. To the extent that I was aware of them,
2 yes.

3 Q. And did -- does that mean that there were
4 certain areas that you drew where you took
5 communities of interest into consideration and
6 certain areas that you drew when you did not take
7 communities of interest into consideration?

8 A. No. I generally would apply the same
9 methodology throughout the drafting of the entire
10 plan.

11 Q. Were you aware of communities of interest
12 in every district that you drew in your plan?

13 A. To the extent that I understood the
14 communities of interest that existed in those
15 areas, yes.

16 Q. But to the extent that you did not
17 understand the communities of interest in those
18 areas, you did not take that into consideration;
19 is that correct?

20 A. If I was unaware of it, I couldn't take
21 it into consideration.

22 Q. Were there some districts where you were
23 unaware of communities of interest that you drew?

24 A. I don't know how to answer that. If I
25 was unaware of it, I was unaware of it.

1 Q. Did you make sure that you were aware of
2 communities of interest in every district that you
3 drew?

4 A. I don't understand how one would do that.
5 I have my understanding of communities of
6 interest, and I applied that throughout the
7 map-drawing process.

8 Q. So is it your testimony that throughout
9 your map-drawing process you were aware of the
10 socioeconomic status of the residents in each of
11 the districts that you drew?

12 A. That is not what I said in my report and
13 that's not --

14 Q. But that's -- that's what I'm asking you.

15 A. I'm sorry?

16 Q. Were you -- let me put it this way, and
17 that's a fair objection on your part.

18 Were you aware of the socioeconomic
19 status of the population groups in each of the
20 districts that you drew?

21 A. As I stated in my report, I gave a
22 general example of what some communities of
23 interest could be. In drafting my plan, I took
24 into consideration communities of interest that I
25 was aware of.

1 Q. But you were not necessarily aware of
2 communities of interest in every district that you
3 drew; is that correct?

4 A. I took into account the communities of
5 interest of which I was aware while drawing the
6 plan, and I applied that consistently throughout
7 the drafting of the plan.

8 Q. Do you have an understanding as to
9 whether the Georgia map drawers who drew the maps
10 during this redistricting process took into
11 consideration communities of interest in the
12 district they drew?

13 A. I don't know, but I would believe that
14 some attention was given to communities of
15 interest as the legislators and the map drawers
16 understood them.

17 Q. Do you have an understanding as to
18 whether the knowledge of the Georgia map drawers
19 who drew the maps in this redistricting cycle as
20 to communities of interest in the districts they
21 drew was the same as your knowledge of communities
22 of interest in the districts you drew?

23 A. I can't imagine that it's the same.

24 Q. And if they did take into consideration
25 their knowledge of communities of interest in the

1 district they drew, could that have affected the
2 compactness scores for those districts?

3 MR. TYSON: Object to form.

4 A. I don't know. I suppose it could. I
5 really don't know. I would say I can think of an
6 example where in Gwinnett County I chose to follow
7 communities based on some of the municipalities.
8 And in my experience, the legislature chose to
9 follow transportation corridors more clearly
10 rather than the municipal boundaries, and I think
11 that is something that is different from the
12 legislative draft of maps and the map that I drew.

13 BY MR. ROSENBERG:

14 Q. And is that instance that led to your
15 drawing district lines that were different than
16 how the legislature drew those lines; is that
17 correct?

18 A. I don't know. I don't know exactly why
19 they drew the map exactly the way they drew it.
20 But my understanding is that the maps in the
21 enacted plan seem to follow the transportation
22 corridors, but I don't see that it was explicitly
23 explained that that's why that was done.

24 Q. Now, you drew one illustrative map for
25 the senate and one illustrative map for the house;

1 is that correct?

2 A. Yes.

3 Q. And how long did it take you to draw
4 those maps?

5 A. I don't know. It was many hours.

6 Q. That's within that 50 to 100 hours that
7 we talked about earlier?

8 A. Yes. I would say it's in that range,
9 yes.

10 Q. Did you draw other illustrative maps that
11 you considered in arriving at your conclusions,
12 other than the maps that appear in your report?

13 A. I would say that they were not maps that
14 are unique, but I would say that in the
15 map-drafting process, I considered many district
16 configurations. So, for example, in drawing some
17 house districts in a particular county, I would
18 have drawn them one way and a slightly different
19 way. And at the end of the process, the districts
20 that I drew are in the plan that I drew.

21 Q. Is it your testimony that there are no
22 other illustrative maps that you could have drawn
23 that could have made a better comparison with the
24 enacted maps than the ones that appear in your
25 report?

1 A. I don't believe I said that in my report,
2 and I wouldn't say that here. I just said that I
3 looked at many district configurations while
4 drawing the plans, and the plans that I submitted
5 in the report are the work of many hours and a lot
6 of thinking and consideration.

7 Q. What's the basis for -- strike that.

8 On the basis of the map for the senate
9 and the map for the house that you drew, you come
10 to your ultimate conclusion in paragraph 48 of
11 your report; is that correct?

12 A. I suppose you could look at it that way.
13 I drew -- I looked at the enacted plan. I drew
14 the plans that I drew; I compared them. As I said
15 in my report, I did not look at the racial data
16 until after I had completed drafting the
17 illustrative plan and then I provided some
18 information about the districts after having
19 drafted that.

20 Q. Are you aware of any literature in your
21 field that supports the proposition that drawing a
22 single illustrative map is sufficient to reach a
23 conclusion as to why enacted maps were drawn less
24 compact than they might have been?

25 A. In my experience, I would say that there

1 are many possibilities when drawing maps, but a
2 lot of times I would distill it down to not many
3 configurations to bring to the deciders. So, for
4 example, if a legislator wanted to see a different
5 proposal in an area, I would draw something like
6 that.

7 And I can think of an instance in North
8 Carolina where I drafted a proposed map in an area
9 and the -- I shared it with Democratic
10 legislators, and those legislators adopted the map
11 portion that I had drawn into their plan. You
12 know, I didn't really get credit for that, but
13 that's okay.

14 Q. But the purpose in those exercises was
15 not a comparison of one map with another to draw a
16 conclusion as to why one map is less compact than
17 another, was it?

18 A. I didn't set out to draw conclusions on
19 compactness. I set out to draw a plan. And then
20 after drawing it, I looked at some of the -- I
21 added in the racial data and I looked at the other
22 considerations regarding compactness.

23 Q. Yeah, I understand that. But the other
24 examples you gave of the single maps you used, in
25 those instances, you did not use those maps to

1 ultimately draw a conclusion as to a lack of
2 compactness in some -- another map you were
3 comparing it to; is that correct?

4 A. I don't think I understand the question.

5 Q. You just testified that you had used
6 single maps in the past when a legislator asked
7 you to come up with a map; is that correct?

8 A. Yes.

9 Q. In that instance, the purpose of your
10 providing the single map was not to draw
11 conclusions comparing it to another map as to why
12 there was more or less compactness; is that
13 correct?

14 A. I don't think so.

15 Q. It's not correct? Then why isn't it
16 correct?

17 A. I'm not following your question.

18 Q. We can move on. Did you read
19 Dr. Duchin's rebuttal record? I think you
20 mentioned you did.

21 A. Yes.

22 Q. Are you familiar with the literature that
23 she cites on page 1 of that report, and that's
24 Exhibit 4, in the last paragraph beginning with
25 the word "comparison"?

1 A. No.

2 Q. You're not familiar with the literature?

3 A. No.

4 Q. And you're aware, of course, that
5 Dr. Duchin has drawn different illustrative maps
6 than yours; is that correct?

7 A. My understanding, yes.

8 Q. And you agree that some of her maps
9 create more majority-minority districts than do
10 the enacted maps; is that correct?

11 A. I believe she states that in her report,
12 yes.

13 Q. And you agree that the districts in her
14 maps are generally more compact than the districts
15 in the enacted maps; is that correct?

16 A. I don't know. I -- are you talking about
17 the rebuttal report, or are you talking about the
18 previous report?

19 Q. Well, if you look at your rebuttal
20 report and let's look at page 9 -- I'm sorry,
21 let's start with page 5 -- actually, let's go to
22 page 6, which is her Alt 1. You compare HD-Alt 1
23 of Dr. Duchin to house-enacted, and there the mean
24 compactness scores are -- certainly on Reock,
25 they're identical and Polsby-Popper they're almost

1 identical.

2 A. I don't know. What report are you
3 referring to, please?

4 Q. I'm sorry. I'm looking at your
5 exhibit -- at your rebuttal report, Exhibit 2,
6 page 6.

7 A. Okay. Page 6, there's Chart 2.

8 Q. Right. In comparing her HD-Alt 1, with
9 the house-enacted, the compactness scores are
10 virtually identical?

11 A. The compact -- the mean compactness
12 score, in this context, I've reported the mean
13 compactness score of the whole plan. It's .39 for
14 her Alt 1, and it's .39 for the house-enacted.
15 The Polsby-Popper is .26, and the house-enacted is
16 .28.

17 Q. And you would consider certainly the
18 Reock scores to be identical, correct?

19 A. To the 100th, yes.

20 Q. And the difference between .26 and .28,
21 do you consider that a significant difference on
22 the Polsby-Popper score?

23 A. They're close.

24 Q. And turning to your comparison of her
25 HD-Alt 2, with the house-enacted, you compare her

1 Reock score is .4; with house-enacted, 39; again,
2 very close, virtually identical; is that correct?

3 A. Yes.

4 Q. And similarly with Polsby-Popper, you
5 have that same .26 and .28 difference?

6 A. Yes. The mean compactness scores are
7 those.

8 Q. And if you turn to page 9, your Chart 5,
9 both of her compactness scores under Reock and
10 Polsby-Popper are at least as high and therefore
11 more compact than the state senate-enacted plans;
12 is that correct?

13 A. The Reock score of the Alt 1 senate plan
14 is .43, and the senate-enacted plan is .42. And
15 the Polsby Popper scores are .29 for the Alt plan
16 and .29 for the senate-enacted plan.

17 Q. And turning to the next page, page 10,
18 your Chart 6, the mean compactness Reock score for
19 Dr. Duchin's senate district Alt 2 is .44 compared
20 to the senate-enacted as you calculated it at .42.
21 And the Polsby Popper score of Dr. Duchin's Alt 2
22 plan, senate, is .3 compared to the senate-enacted
23 .29; is that correct?

24 A. Yes.

25 Q. And so and yet again, in that instance,

1 Dr. Duchin's plans are as -- at least as compact,
2 if not more compact, under your analysis, and
3 that's her plan, Alt 2 plan as a whole, than the
4 senate-enacted plan; is that correct?

5 MR. TYSON: Object to form.

6 A. The mean compactness scores are what
7 they're stated here, yes.

8 BY MR. ROSENBERG:

9 Q. And turning to page 11 of the
10 congressional plan comparing Dr. Duchin's CD-Alt 1
11 with the CD-enacted, again, her Reock and
12 Polsby-Popper scores are both higher than the
13 CD-enacted scores; is that correct?

14 A. Yes.

15 Q. And you also agree that some of the --
16 her maps created more majority-minority districts
17 than do the enacted maps, right?

18 A. I'd have to look at that; generally, yes.

19 Q. Is that -- are those facts consistent
20 with --

21 A. I --

22 Q. -- your conclusion -- I'm sorry.

23 A. I'm sorry.

24 Q. Go ahead.

25 A. Yeah, on the Chart 4, it appears that

1 the -- Dr. Duchin's plan has fewer majority
2 African-American seats.

3 Q. But you did not take into consideration
4 how many majority black and Hispanic plans
5 Dr. Duchin created; is that correct?

6 A. I don't understand the question.

7 Q. In these charts, you did not take into
8 consideration how many majority combined black and
9 Hispanic districts Dr. Duchin created.

10 A. I didn't look at that.

11 Q. Are you aware of any techniques that are
12 used in your field to check whether a map is an
13 outlier?

14 MR. TYSON: Object to form.

15 A. I don't understand what you mean by that.

16 BY MR. ROSENBERG:

17 Q. Well, when you put forward a map, you
18 want to make sure that it is a map that is
19 reasonable in terms of its configuration and the
20 way the lines were drawn, right?

21 A. I don't know how you would determine
22 that.

23 Q. Have you ever run an ensemble -- excuse
24 me -- do you know what the phrase "ensembles"
25 is -- or what the word ensembles means in the

1 context of your field?

2 A. As a map drawer, I have not --

3 Q. Yes, as a map drawer.

4 A. As a map drawer, I have not seen that
5 phrase used in drawing in the context of the work
6 that I do.

7 Q. So you yourself have never done any
8 ensemble -- or run any ensembles in terms of map
9 drawing?

10 A. I've drawn maps; I've drawn hundreds and
11 hundreds of maps.

12 Q. Have you ever used a computer and put in
13 an algorithm which uses certain factors and does
14 not use other factors to spit out thousands of
15 maps?

16 A. No. That's not something I would do.
17 That's not the type of work that I do.

18 Q. Are you aware that there are people who
19 do that in your field?

20 A. I don't know that I'd say they're in my
21 field. As a map drawer, I have not experienced
22 that being used in the legislative process and the
23 map drawing process for the governing bodies that
24 produce maps for use in elections.

25 Q. I'd like to draw your attention now to

1 page 16, paragraph 27 of Exhibit 1, which is your
2 report. And you state that after completing the
3 house illustrative plan you then selected several
4 metrics and you cite county splits, voting
5 precinct splits, compactness scores, paired
6 incumbents and the number of majority 18 or older,
7 all of persons black districts; is that correct?

8 A. Yes.

9 Q. Now, why did you select those metrics?

10 A. I believe that similar metrics had been
11 used in the preliminary injunction phase of
12 another trial, and so I used similar metrics here.

13 Q. And when you say they were "used," they
14 were used by whom?

15 A. I believe that I submitted an affidavit
16 in a related case, and I provided that information
17 as part of the preliminary injunction phase of the
18 trials.

19 Q. When you say you looked at voting
20 precinct splits, were those actual precinct splits
21 or were those what are called the VTD splits?

22 A. I think I identified that the data I was
23 using was the census VTDs, and that was the data
24 that was available to the Georgia legislature that
25 I was given by counsel.

1 Q. And when you say "VTDs," that means
2 voting tabulation districts?

3 A. A lot of times people also say
4 "precincts." And in this context, for purposes of
5 splits, I'm talking about voting precinct splits.

6 Q. Are VTDs identical to precincts?

7 A. Sometimes, yes.

8 Q. Sometimes not, right?

9 A. It could be that there's a difference.

10 Q. And it could be there's a difference
11 because the VTDs are based on data that's provided
12 by the States to the Census Bureau which is not --
13 which could be a couple of years before you're
14 looking at the actual precincts; isn't that
15 correct?

16 A. It really depends on the circumstances.
17 As I -- I identified the data that I used for my
18 analysis, and it came from the data that I believe
19 was available to the Georgia legislature at the
20 time of redistricting.

21 Q. Do you know what year the data that
22 underlie the VTDs was submitted to the Census
23 Bureau by the States?

24 A. No.

25 Q. If I told you that it was 2018, would you

1 have a basis to disagree with that?

2 A. It seems reasonable to me that that's
3 possible.

4 Q. Do you know whether the precincts in
5 Georgia changed between 2018 and the time the maps
6 were drawn?

7 A. Well, as I'm sure you're aware, the 2020
8 census was delayed and this is an unusual
9 circumstance for the entire nation where an
10 election in 2020 was available for use in the
11 redistricting; it was available. But in addition
12 to that, afterwards, there was -- 2021 was
13 sometimes available. So in the case of Virginia,
14 there was additional election data information.
15 And more specifically --

16 Q. Do you -- I'm sorry.

17 A. -- And more specifically to your point, I
18 believe that there probably would have been
19 changes in the voting precinct that were used in
20 the elections in 2020 from the census VTDs that
21 were provided to the legislature. That would not
22 surprise me.

23 Q. And you mentioned that -- your
24 understanding is that the Georgia map drawers used
25 VTDs in their map-drawing process. What's the

1 basis for that understanding?

2 A. I was given the data by counsel, and it
3 was represented to me that this was the data that
4 was used by the map drawers.

5 Q. If it was not the data that was used by
6 the map drawer, would you rather use the data that
7 was used by the map drawer in your report?

8 A. I think that in this context the VTDs are
9 a unit that's fairly well understood, and I used
10 them in my analysis.

11 Q. If there were significant changes in
12 terms of whether the VTDs accurately represented
13 the VTD data that you relied on accurately
14 represented the precincts as existed at the time
15 that the map drawers drew their lines, which would
16 you rather use, the VTD data or the precinct data?

17 A. I suppose I could look at both.

18 Q. Why would you look at outdated data if
19 you have current precinct data?

20 A. I didn't have that data available, and I
21 don't know if the map drawers had the precinct
22 data in their map-drawing system.

23 Q. If the map drawers did have precinct data
24 available, would that change your opinion?

25 A. I don't believe so. I evaluated the

1 reports that I ran consistently in every analysis
2 that I did.

3 Q. If the precinct data was different than
4 the VTD data, how could that affect your opinion?

5 A. I don't know.

6 Q. If someone was drawing a map so as to
7 limit the number of precinct splits, do you have
8 an opinion as to whether that map drawer should
9 rely on current precincts or on outdated VTD data?

10 A. I don't know because I've seen
11 circumstances where analyses of legislatively
12 drawn maps, which were many years forward in the
13 future and the analyses was done -- sometimes
14 additional precinct information was used and
15 sometimes not. Because if you're evaluating the
16 state of the situation at the time of the map
17 drafting, it might make more sense to use the data
18 that was available at the time of the map
19 drafting.

20 Q. But if the map drawers did have the
21 precinct data available and relied on that data,
22 would that affect the answer you just gave?

23 A. I don't know.

24 THE WITNESS: If there's not a pending
25 question, I'd like a short break, please.

1 MR. ROSENBERG: Okay. How short?

2 THE WITNESS: Five minutes. I need to
3 use the bathroom.

4 MR. ROSENBERG: Sure.

5 THE VIDEOGRAPHER: Stand by. The time is
6 11:45 a.m. We are off video record.

7 (Recess)

8 THE VIDEOGRAPHER: The time is 11:53 a.m.
9 We are back on video record.

10 BY MR. ROSENBERG:

11 Q. Hi, again, Mr. Morgan. During the break,
12 did you discuss the deposition with Mr. Tyson?

13 A. No.

14 Q. Thank you. We were talking about VTDs.
15 Are you aware that the people who drew the maps
16 used an updated precinct layer which was inputted
17 into Maptitude?

18 MR. TYSON: Object to form.

19 A. I don't know.

20 BY MR. ROSENBERG:

21 Q. If they did, would that affect any of
22 your opinions as to precinct splits in your
23 reports?

24 A. It wouldn't affect what I produced in my
25 reports. If I had another set of data, I could

1 rerun the reports on that set of data.

2 Q. But if that were the situation, the
3 people who drew the maps would have used different
4 data than you did for the purposes of assessing
5 how many precinct splits there were; isn't that
6 correct?

7 A. I suppose so, but I ran the reports on
8 the information that I had.

9 Q. And do you know what data Dr. Duchin used
10 in calculating her precinct splits and the enacted
11 plans' precinct splits?

12 A. No.

13 Q. And again, if she was using the actual
14 precinct data and not the outdated VTD data, that
15 could explain a difference between your
16 calculation of voting precinct splits and her
17 calculation of precinct splits; isn't that
18 correct?

19 MR. TYSON: Object to form.

20 A. It wouldn't change the analysis that I
21 did because I was using the precinct splits for
22 her plan using the data that she provided to me,
23 so those comparisons would be the same. If she
24 used a different set of precinct data, I don't
25 know when that was from, but I could run reports

1 on that data if it was provided to me.

2 BY MR. ROSENBERG:

3 Q. But your calculation of voting precinct
4 splits is based on VTD data; is that correct?

5 A. It's based on the data that was provided
6 to me by counsel.

7 Q. Which you testified was VTD data; is that
8 correct?

9 A. I believe that's the case. Again, it was
10 provided by counsel.

11 Q. By the way, do you have access to updated
12 precinct data -- precinct layer data?

13 A. I do not. To be more specific, it was
14 not provided to me.

15 Q. By the way, you agree that political data
16 is not available below the VTD level; is that
17 correct?

18 A. It depends on your definition because you
19 just said that precinct data and VTD data are
20 different. So in that context, I'm not sure that
21 I know what you mean.

22 Q. Well, in the past, have you discussed the
23 relationship between VTD level and political data
24 availability?

25 A. My understanding is that political data

1 is reported in voting precincts at the time of an
2 election.

3 Q. And how about racial data? Is that
4 available at the VTD level?

5 A. My understanding is that racial data is
6 provided by the census at the block level.

7 Q. And contained within the precinct level?

8 A. It can be aggregated to the precinct
9 level, the VTD level, municipal level, anything
10 that has -- shares a boundary with the census
11 blocks.

12 Q. If you saw a lot of precinct splits in a
13 plan, would that be consistent with the use of
14 racial data in a line drawing?

15 A. I don't know.

16 MR. TYSON: Object to form.

17 A. Yeah, I don't know.

18 BY MR. ROSENBERG:

19 Q. It could be?

20 A. I don't know.

21 Q. In your report, you did not analyze any
22 Hispanic data; is that correct? Any data relating
23 to Hispanic voters or Hispanic population?

24 A. It's not in the reports that I produced.

25 Q. And why did you not analyze any Hispanic

1 metrics?

2 MR. TYSON: Object to the extent that
3 calls for conversation with counsel. You can
4 answer otherwise.

5 A. I used the data with the African-American
6 population in my report.

7 BY MR. ROSENBERG:

8 Q. And why did you use only the data for
9 African-American population in your report?

10 MR. TYSON: Same objection.

11 A. It was the same data that I used in the
12 preliminary injunction phase of the trial, and I
13 used it in this report as well.

14 BY MR. ROSENBERG:

15 Q. And why did you only use data relating to
16 African-American metrics in the PI hearing -- in
17 connection with the PI hearing?

18 A. That was the data that I produced.

19 Q. Why did you choose to produce only that
20 data?

21 A. I didn't see that it was a choice. I
22 just produced this data.

23 Q. Are you aware that there are coalition
24 claims dealing with the majority-minority
25 districts in comprise of combined black and

1 Hispanic populations in this case?

2 A. That seems to make sense, based on my
3 understanding.

4 Q. Would analysis of Hispanic metrics be
5 relevant to such claims?

6 MR. TYSON: I'll object to form.

7 A. I don't know. I didn't make that
8 analysis in my reports.

9 BY MR. ROSENBERG:

10 Q. In your report, you say that you looked
11 at two regions of roughly similar geography to
12 compare the house illustrative plan to the
13 house-enacted plan; is that correct?

14 A. Yes.

15 Q. And you did the same thing when you
16 created your senate illustrative plan except you
17 looked at only one region for purposes of
18 comparison; is that correct?

19 A. Yes.

20 Q. Can you walk me through the steps that
21 you took to select your house regions?

22 A. In paragraph 28, on page 17, I identify
23 that Region 1 consists primarily of DeKalb,
24 Clayton, Henry, Rockdale, Newton, and Walton
25 Counties.

1 Q. Right. And why did you choose those
2 counties?

3 A. Those are the -- generally those -- the
4 two region -- or the region -- I chose the
5 districts that generally are in those counties.

6 Q. Right. Why would you choose the regions
7 that were generally in those counties?

8 A. Generally speaking, there was a contrast
9 in district shape in some of that area that I
10 noticed.

11 Q. What do you mean by contrasting district
12 shape that you noticed?

13 A. In my report, I say that, in the
14 illustrative plans, the districts look compact and
15 only cross county lines in a limited way. By
16 contrast, looking at the district's and the
17 house-enacted plans, the districts look elongated
18 and they cross county lines in a number of places.

19 Q. So in deciding which region to compare,
20 you looked at your illustrative plan and saw how
21 compact it was and then you looked and found a
22 region that had elongated districts? Is that what
23 you're saying?

24 A. That is true. And also, I did then add
25 the racial data in after I drafted my plan, and I

1 looked at the racial data in that region as well.

2 Q. And is that the same approach you took to
3 selecting Region 2?

4 A. I would say there's an additional factor
5 that I should have mentioned, and that is that the
6 Region 1 and Region 2 don't overlap that much in
7 the sense that, for example, in the house enacted
8 plan, Fulton County crosses into Fayette County.
9 And so in my experience, you would associate
10 Fayette County with Fulton County in the enacted
11 plan rather than the other regional breakdown that
12 I provided.

13 So looking back at my report and looking
14 at the enacted plan, DeKalb County districts are
15 associated strongly with Rockdale and Henry
16 County. Clayton is more or less self-contained as
17 it is in my illustrative plan. So I would say
18 that the additional factor is the association of
19 counties. And going back to the Region 2, I
20 noticed in the enacted plan that Douglas County
21 and Fulton County are connected in the districts.
22 So it would make sense to me to include Douglas
23 County with Fulton County in a region rather than
24 have Douglas County be separated.

25 Q. Did you undertake any demographic

1 analysis before you chose your regions?

2 A. Not specifically. But as I'm aware in
3 this case, a lot of the African-American districts
4 tend to be in Fulton, DeKalb, Clayton, Douglas,
5 sometimes Cobb. We talk about Henry, Rockdale,
6 Newton.

7 Q. Now, the outside contour of your Region
8 1, meaning the boundary that surrounds your entire
9 Region 1, is not identical to the boundaries
10 surrounding the combined districts in the enacted
11 plan to which you compare your Region 1; isn't
12 that correct?

13 A. Yeah. As I pointed out in my discussion
14 of -- in paragraph 28, they're generally
15 consisting of DeKalb, Clayton, Henry, Rockdale,
16 Newton, and Walton Counties. And as you can note
17 from the illustrative plan and the enacted plans,
18 some of the districts either do not fully cover
19 that -- those counties or they go out of that
20 slightly.

21 For example, on page 19, Map 3, of my
22 illustrative plan, one district from DeKalb County
23 has a small portion of Fulton and the district
24 that includes Newton County in yellow does not
25 have all of Walton County. So there's a portion

1 of Walton County that's not included in the
2 district boundaries.

3 Q. And similarly, you're -- the outside
4 contour, the outside boundaries that surround your
5 Region 2, is not identical to the outside boundary
6 of the combined districts in the enacted map to
7 which you're comparing your district to.

8 A. No. Nor did I say that it was in my
9 report.

10 Q. When -- if you don't compare areas -- or
11 strike that.

12 In terms of the outside boundary of your
13 Region 1 and the outside boundary of the region to
14 which you're comparing it to, doesn't the outside
15 boundary define the configuration of those entire
16 areas?

17 A. No.

18 Q. It does not? You're saying the outside
19 boundary does not define the configuration of
20 your -- the outside configuration of your Region
21 1?

22 A. That's correct. I pointed out that the
23 region generally consists of those counties. And
24 as I also just stated now, some of the district
25 boundaries include some territory that is outside

1 of the boundaries of those counties or in another
2 case it does not include the full county. But the
3 districts in that area, the regions that I
4 created, are substantially the same areas.

5 Q. But if you're -- if you don't compare
6 areas with the same outside boundaries, by
7 definition, aren't you increasing the likelihood
8 that there's going to be a difference in
9 compactness scores?

10 A. Not necessarily. I'm looking at the
11 districts that are in the region that is based
12 primarily on counties. And as I pointed out, I'm
13 associating the regions with counties that have
14 districts that cross county lines.

15 As I pointed out with Douglas and Fulton
16 and Fayette and Fulton, they are associated in the
17 enacted plan. And even though in the case of my
18 illustrative plan, Fayette County is
19 self-contained. It does not cross the line with
20 Fulton County. I still included that in the
21 region.

22 Q. But doesn't the outside boundary of the
23 region affect compactness scores?

24 MR. TYSON: Object to form.

25 A. Not the way I presented it in my

1 analysis. I don't believe that's the case.

2 BY MR. ROSENBERG:

3 Q. If you have one area that has an area
4 that sticks out like a needle and another does
5 not, and I'm talking about the outside boundary,
6 doesn't that have the potential for affecting the
7 relative compactness scores of those two regions?

8 MR. TYSON: Object to form.

9 A. The district boundaries create
10 compactness scores. So whatever the boundary is,
11 it will have an associated compactness score with
12 it.

13 BY MR. ROSENBERG:

14 Q. Those districts that border on the
15 outside boundary, they're compactness scores are
16 going to be affected by that outside boundary; are
17 they not?

18 A. It's included in the district compactness
19 score.

20 Q. So the outside boundary of the district
21 that borders on the outside boundary -- by outside
22 boundary, I mean the outside boundary of the
23 region as a whole -- is going to affect the
24 compactness score of a district that borders on
25 the outside boundary; is that correct?

1 A. Well, I didn't have fractional districts.
2 I believe that it was probably appropriate to
3 include whole districts as opposed to cutting off
4 a district at the county line. So if a district
5 went outside of the county-region area, then I
6 included the entire district compactness score in
7 my analysis. And, you know, I wanted to be as
8 clear as possible on that point and I was.

9 Q. And that would affect the relative
10 compactness score of a district that went outside
11 a county and a district that did not go outside
12 the county; isn't that correct?

13 A. Well, the district compactness score is
14 what it is. Whether it goes out of the county or
15 not, the district compactness score is reported in
16 my report.

17 Q. Is the compactness score of your district
18 affected by the lines of the district?

19 A. Yes. It's defined by the lines of the
20 district as far as the geographic compactness
21 score, yes.

22 Q. Now, if you'll trying to compare the
23 racial distribution of two multidistrict plans,
24 wouldn't you want the two plans to cover the same
25 geographic areas?

1 A. Not exactly. And in this case, I
2 provided the districts that included the same
3 counties and generally they were -- they're going
4 to be similar in population. They're going to be
5 similar in the geographic area.

6 Q. But they weren't exactly the same in
7 population; is that correct?

8 A. No. And as I identified in the report --
9 in my report, they were not intended to be.

10 Q. And they were not exactly the same in
11 terms of their racial demographics; is that
12 correct?

13 A. No. I don't see how that would be
14 possible.

15 Q. And they were not exactly the same in
16 terms of the location of any racial or ethnic
17 group; is that correct?

18 A. The district boundaries are what they are
19 in the illustrative plan and the enacted plan, and
20 the regions I chose are basically based upon the
21 counties in that area. And some of the districts
22 go outside of the counties a little bit, and some
23 of them do not fully fill in the counties.

24 Q. And let's look at your house-enacted plan
25 on page 25 of Exhibit 1, Map 5 -- or actually, you

1 know, could we mark an exhibit, Alex -- oh, no, we
2 have it. Actually, I can compare it right there.
3 And comparing it to the house-enacted plan -- or
4 strike that.

5 Let's go to Region 1 first, which is on
6 page --

7 MR. ROSENBERG: What is it, 19? Yeah.

8 BY MR. ROSENBERG:

9 Q. Page 19 is your house illustrative plan
10 for Region 1. Map 3 and Map 4 is the
11 house-enacted plan for Region 1; is that correct?

12 A. Yes.

13 Q. Okay. The enacted map that you're
14 comparing Region 1 to covers all of Walton County;
15 is that correct?

16 A. Yes.

17 Q. You originally had a chunk on the east
18 corner; is that correct?

19 A. Yes. I previously stated that at least
20 twice.

21 Q. And the enacted map that you're comparing
22 Region 1 to includes three portions of Gwinnett
23 County; is that correct?

24 A. Yes.

25 Q. Yours includes none of Gwinnett; is that

1 correct?

2 A. That's correct. In drawing the plans,
3 DeKalb County was principally self-contained with
4 a small portion of Fulton. Whereas the enacted
5 plans go into Gwinnett County and Fulton County
6 and Rockdale.

7 Q. The enacted map you're comparing Region 1
8 to includes only about a third of the geography of
9 Newton County, but yours includes all of Newton?

10 A. I don't know what the ratio is. Whether
11 that's based on area or based on population, I
12 don't know.

13 Q. I was eyeballing it based on area.

14 A. Okay. Then if that's a third, then I
15 guess you'd conclude that it's a third.

16 Q. The enacted map you're comparing Region 1
17 to doesn't include the eastern tip and southwest
18 corner of Henry County. Your map includes all of
19 Henry County; is that correct?

20 A. Yes. I drew four districts that were
21 completely self-contained within Henry County.

22 Q. The enacted map you're comparing Region 1
23 to extends on the north tip of DeKalb County,
24 westward into some of Fulton, but nowhere else; is
25 that right?

1 A. I don't understand. The Fulton County --

2 Q. Well, yours extends a bit from the center
3 of DeKalb westward into Fulton County.

4 A. Yes. And the enacted plan has a small
5 portion of Fulton County to the north.

6 Q. It was different than yours.

7 A. Yes, different.

8 Q. And the enacted map you're comparing
9 Region 1 to extends from the southern part of
10 Henry County to a piece of the northern part of
11 Spalding County, but yours doesn't do that?

12 A. I'm sorry. Spalding County is not in
13 Region 1?

14 Q. No. The enacted map extends into -- to a
15 piece of the northern part of Spalding County, but
16 yours does not?

17 A. Yes, that's correct.

18 Q. And then if we go to -- let's go to pages
19 25 and 26, and 25 is your Region 2 map, and 26 is
20 the house-enacted plan to which you're comparing
21 Region 2; is that correct?

22 A. Yes.

23 Q. The enacted map of the region to which
24 you're comparing Region 2 extends northward from
25 Fulton County, picking up some portions of

1 Cherokee and Forsyth --

2 A. Yes, that's correct.

3 Q. -- is that correct?

4 A. Yes, that's correct.

5 Q. And extends eastward from Fulton to a
6 piece of Gwinnett; is that correct?

7 A. Yes.

8 Q. But yours does not, right?

9 A. That's right.

10 Q. The enacted map of the region to which
11 you're comparing Region 2 loses a piece of Fulton
12 County around a quarter of the way down from the
13 northern tip that your map has; is that correct?

14 A. Yes.

15 Q. The enacted map of the region to which
16 you're comparing Region 2 has none of Cobb County.
17 Yours has a piece in the southwest corner; is that
18 right?

19 A. Yes.

20 Q. The enacted map of the region to which
21 you're comparing Region 2 has a piece of Fulton
22 County on the southeast corner, and yours has none
23 of that?

24 A. I'm sorry. Could you repeat that again,
25 please?

1 Q. Sure. The enacted map to which you're
2 comparing Region 2 has a piece of Paulding
3 County --

4 A. Yes, Paulding County. That's correct.

5 Q. -- to the southeast corner. Yours has
6 none of Paulding County?

7 A. That's correct. My districts in that
8 area did not cross into Paulding. Instead it --

9 Q. The enacted map of the region to which
10 you're comparing Region 2 has a piece of Carroll
11 County, but yours does not have any part of it?

12 A. That's correct?

13 Q. The enacted map of the region to which
14 you're comparing Region 2 has different parts of
15 Coweta County than does your map; is that right?

16 A. Yes. The Coweta portions are -- there
17 are two whole districts in Coweta in the
18 illustrative plan, and it's split differently in
19 the enacted plan.

20 Q. And the enacted map of the region to
21 which you're comparing Region 2 has very different
22 parts of Spalding County than does your map; is
23 that right?

24 A. It has a lot of the same area.

25 Q. Well, yours -- the enacted map has

1 primarily -- you've got somewhat more than the
2 western half, right? And your map has mostly all
3 of Spalding except for a chunk on the southwest
4 corner; is that right?

5 A. In my illustrative plan, I have one whole
6 district contained within Spalding County.
7 Spalding County has about 1.16 percent of a house
8 district, so I created one district wholly in
9 Spalding and the residual is that southern
10 portion. That's not --

11 Q. I'm sorry. I didn't mean to interrupt
12 you.

13 A. Oh, that's not in the illustrative
14 District 134.

15 Q. And the enacted map of the region to
16 which you're comparing Region 2 has a chunk of
17 Henry County, and your map has none; is that
18 right?

19 A. That's right.

20 Q. Now, did anything stop you from drawing
21 an illustrative plan precisely within the contours
22 of a group of districts in the enacted plan?

23 A. Yes? That was --

24 Q. What?

25 A. -- absolutely not what I was intending to

1 do. I was drawing from a blank slate with the
2 whole state. And as I said in my report, I did
3 not make reference to the existing districts. So
4 that would have been exactly counter to what I was
5 doing.

6 Q. But you could have drawn from a blank
7 slate by just saying, Okay, I'm going to pick
8 these districts all from the enacted plan, and I'm
9 going to draw my lines within that outside
10 boundary of those districts, right?

11 A. No. That seems to be the exact opposite
12 of a blank slate.

13 Q. Without taking into consideration race,
14 you could have done that, though?

15 A. No. It wouldn't have fit into the rest
16 of the illustrative plan that I had drawn. By
17 definition, they're different.

18 Q. Did you do or undertake any analysis as
19 to the difference in the racial demographics of
20 your Region 1 and the racial demographics of the
21 districts that comprise the region to which you're
22 comparing it to?

23 A. I don't understand. I defined the region
24 as primarily those counties and then looked at the
25 districts within those counties, and some of them

1 go outside or don't fully take the population from
2 the counties.

3 Q. But the districts to which you're
4 comparing your Region 1 to have different racial
5 demographics than the district -- within the
6 districts in Region 1 as combined; is that
7 correct?

8 A. I'm not sure I understand the question.

9 Q. The racial demographics of the districts
10 in the enacted plan to which you're comparing your
11 Region 1 are different; is that correct?

12 MR. TYSON: Object to form.

13 A. I still don't understand what you're
14 saying.

15 BY MR. ROSENBERG:

16 Q. I think you earlier testified that you
17 agreed that the racial demographics of Region 1
18 differ from the racial demographics of the
19 districts that comprise the region to which you're
20 comparing your Region 1 districts.

21 MR. TYSON: Object to form.

22 A. You asked me how I chose my region, and I
23 stated what I stated in my report; that it's
24 primarily based on the contiguous counties within
25 the area. And I pointed out that I picked some of

1 those counties because they're associated with
2 each other in the enacted plan, and the racial
3 demographics of the districts are what they are.

4 BY MR. ROSENBERG:

5 Q. And they're different from the districts
6 that you set forth in your Region 1. The racial
7 demographics of those districts as combined are
8 different than the racial demographics of the
9 districts as combined to which you are comparing
10 your Region 1 districts.

11 MR. TYSON: Object to form.

12 A. I didn't undertake that kind of analysis
13 here. I didn't aggregate the districts into a
14 single super district of 28 districts; no, I
15 didn't do that.

16 BY MR. ROSENBERG:

17 Q. Could the compactness of the enacted
18 house map as compared to the -- strike that.
19 Could the compactness of the region in the enacted
20 house map to which you compare your Region 1 be
21 affected by the differences in the geographic area
22 covered by the districts in the enacted map to
23 which you're comparing Region 1 and the districts
24 in Region 1?

25 MR. TYSON: Object to form.

1 A. As I said in my report, I picked an area
2 that was substantially the same area based on
3 counties and the districts that were associated
4 crossing county lines. The districts that I chose
5 are the districts that I chose.

6 BY MR. ROSENBERG:

7 Q. Well, I understand the districts that you
8 chose are the districts that you chose. But could
9 the geographic area of the districts to which
10 you're comparing the districts that you chose for
11 your Region 1 affect the relative compactness
12 scores between the districts in your Region 1 and
13 the districts in the region to which you're
14 comparing them from the enacted plan?

15 MR. TYSON: Object to form.

16 A. We're back to Region 1 now? There's a
17 great deal of overlap in the districts.

18 BY MR. ROSENBERG:

19 Q. Did you do any analysis to see whether
20 the differences, aside from the overlap, could
21 affect the compactness -- relative compactness
22 scores of your Region 1 and districts -- and the
23 districts to which you're comparing them from the
24 enacted map?

25 A. I didn't undertake to do that analysis.

1 I didn't do that in my report.

2 Q. Thank you.

3 MR. ROSENBERG: It's -- I think we're at
4 a time to break, if you're okay, breaking for
5 lunch? It's 12:25 -- or oh, wait, it's -- we're
6 in different time zones there -- no, we're in the
7 same. Why don't we take a 45-minute break?

8 MR. TYSON: (Nods head affirmatively.)

9 THE VIDEOGRAPHER: Stand by.

10 MR. ROSENBERG: Brian, does that work for
11 you?

12 THE VIDEOGRAPHER: Stand by. The time is
13 12:26 p.m. We are off video record.

14 (Recess)

15 THE VIDEOGRAPHER: The time is 1:18 p.m.
16 We are back on video record.

17 BY MR. ROSENBERG:

18 Q. Hi again, Mr. Morgan. Before the lunch
19 break, you mentioned that you had drawn different
20 configurations before you came up with your
21 ultimate illustrative plan. Did you calculate the
22 compactness in those other configurations?

23 A. No. I didn't run compactness reports on
24 those.

25 Q. Did you do any analysis of those

1 configurations in terms of the movement of racial
2 groups, the -- or the creation of
3 majority-minority districts?

4 A. No. As I stated, I did not look at any
5 racial data in the drafting of this plan.

6 Q. Turning back to your initial report,
7 Exhibit 1, and looking at the maps on pages 38 and
8 39, the map on 38 being the senate -- your senate
9 illustrative metro region and on 39 being your --
10 or being the senate-enacted metro region; is that
11 correct?

12 A. Yes.

13 Q. And how did you choose what to include
14 within your illustrative metro region?

15 A. Well, as I pointed out, I generally
16 looked at the counties in the area. So it's on
17 page 36, Douglas, Fulton, Coweta, DeKalb, Clayton,
18 Fayette, Henry, Rockdale and Newton Counties, and
19 that comprised the region.

20 Since the senate districts are larger
21 than the house districts it seemed reasonable to
22 do a single region.

23 Q. Now, your comparison of the senate
24 regions does not compare to all of the regions
25 that Dr. Duchin set forth in her report; is that

1 correct?

2 A. Which region -- which report? I'm sorry.

3 Q. Well, for example, she -- in both the
4 house and the senate, she has -- I should say in
5 either the house or the senate, she has calculated
6 or set forth majority-minority maps for the's east
7 black belt, for southwest, or southeast, and you
8 don't have -- you don't address those in your
9 maps; is that correct?

10 A. When was Dr. Duchin's report filed?

11 Q. This is right. This is your original
12 report. But in any report, you don't set forth
13 any maps compared -- you don't do a comparison
14 with any of those regions; is that correct?

15 A. I'm not sure when Dr. Duchin's report was
16 filed, but my report was filed December 5th of
17 2022.

18 Q. But you chose only to focus on the
19 regions that you did in those maps. Your
20 illustrative map for the senate is limited to the
21 metro region, and your illustrative maps for
22 Region 1 and 2 are listed to the counties that you
23 set forth in your report?

24 A. Yes. That's what's in the report.

25 Q. And your senate illustrative plan does

1 not cover precisely the same terrain. The metro
2 regions did not cover precisely the same terrain
3 as the enacted metro region on page 39 of your
4 report; is that correct?

5 A. The districts in the illustrative plan
6 and the enacted plan are slightly different, but
7 the counties that I chose for the region are the
8 same counties.

9 Q. The enacted senate map includes all of --
10 other -- includes almost none of Fayette County,
11 but yours includes all of it; is that correct?

12 A. Yes. The enacted district -- the
13 district that includes Fayette County, I believe,
14 has Fayette and Spalding and I think some more
15 territory as well.

16 Q. And the enacted senate map includes only
17 the western third geographically of Henry County.
18 Yours includes about two-thirds geographically of
19 Henry County including the entire northern half?

20 A. Yes.

21 Q. And the enacted senate map includes the
22 southern part of Gwinnett County. Yours
23 includes -- excludes all of Gwinnett?

24 A. Yes. My -- in my illustrative plan,
25 there are four senate districts entirely within

1 DeKalb County. And in the enacted plan, there are
2 seven districts that include a portion of DeKalb
3 County.

4 Q. And the enacted senate map excludes the
5 northern part of -- the northern piece of Fulton
6 County that you include in yours?

7 A. In my illustrative plan, the -- I don't
8 have the district that includes the very top
9 portion of Fulton County.

10 Q. And the enacted map includes portions of
11 Cobb County while yours excludes all of Cobb
12 County; is that correct?

13 A. Yes. I believe, in my illustrative plan,
14 I had districts that were self-contained within
15 Cobb.

16 Q. And the illustrative -- the enacted
17 senate map and yours have different parts of
18 Douglas and Newton Counties that are included,
19 right?

20 A. Yes. But I would say it's -- in that
21 case, it's substantially the same territory that's
22 not included in both the senate-enacted and the
23 senate illustrative maps.

24 Q. And as was the case with the house
25 regions, the racial demographics of the enacted

1 senate map metro region and the racial
2 demographics of your illustrative metro region --
3 senate metro region are fairly different; is that
4 correct?

5 A. I'm sorry. I didn't hear the last part
6 of that question.

7 Q. Sure. As was the case with the house
8 regions, your senate illustrative map region has
9 different racial demographics from the
10 senate-enacted metro region?

11 MR. TYSON: Object to form.

12 A. The districts in the regions are the
13 districts in the illustrative map, and the enacted
14 map are slightly different districts, yes. But it
15 covers roughly the same geographic area.

16 BY MR. ROSENBERG:

17 Q. But you've done no calculation as to what
18 those differences are in terms of the racial
19 demographics?

20 A. Well, the racial demographics of the
21 districts are included in the report.

22 Q. You've done no calculation as to how
23 those racial demographics affected your
24 conclusions as to compactness?

25 MR. TYSON: Object to form.

1 A. Well, as I stated concerning the house, I
2 didn't create a super district of a dozen
3 districts and looked at the racial demographics of
4 a super district.

5 BY MR. ROSENBERG:

6 Q. So you did not calculate what the effect
7 of any differences in racial demographics between
8 your -- between the senate-enacted metro region
9 and your illustrative senate metro region were?

10 A. Again, they're not precisely the same
11 boundaries, and the district demographics are all
12 included in the report. In the appendices, all of
13 the districts are included. So if there's
14 information about the racial demographics, it's in
15 the appendix as well.

16 Q. But you did not do a calculation as to
17 the effect of the differences in the racial
18 demographics between the senate-enacted metro
19 region and your illustrative senate metro region?

20 A. The differences between them? No, I
21 guess I didn't do that. There are some boundaries
22 that are different, as we've discussed.

23 Q. And you did not do a calculation as to
24 how those differences affect the relative
25 compactness of your illustrative senate metro

1 region compared to the enacted senate metro
2 region?

3 A. Well, I provided the compactness scores
4 for the districts in the area, and I made some
5 conclusions and observations of that in my report.

6 Q. But you did not calculate how the
7 differences in racial demographics as between the
8 senate-enacted metro region and your illustrative
9 senate metro region work?

10 A. I didn't create a supercluster of
11 districts. I didn't aggregate all of the data
12 from the districts into a single group.

13 Q. And therefore, you did not do that
14 calculation?

15 A. As I said, I didn't put them -- all of
16 those districts together in one super district.

17 Q. So as to compare the effect of the
18 differences of the racial demographics as between
19 the senate-enacted metro region and the
20 illustrative senate metro region on compactness;
21 is that correct?

22 A. That was not what I was looking at in my
23 report.

24 Q. Okay. On page 18, paragraph 28, you say,
25 Looking at the districts in the house illustrative

1 plan, the districts look compact and only cross
2 country [sic] lines in a limited way. That's what
3 I was looking for earlier.

4 When you say the districts look compact,
5 the different kind of eyeball tests you made of
6 compactness?

7 A. Well, I provided an inset of the house
8 illustrative plan in Region 1. And to me, they
9 appear to be compact and they clearly don't cross
10 county boundaries except in a limited way.

11 Q. And that's what you meant by they look
12 compact?

13 A. In looking at this, they appear to look
14 compact to me.

15 Q. And that's why earlier when I said I was
16 looking for where you said you eyed it. Is this
17 where you, kind of, eyed it, kind of an eyeball
18 check on compactness?

19 A. I didn't say that anywhere in my report
20 about an eyeball test. That's your
21 characterization of it.

22 Q. My -- I just asked about my
23 characterization. What I'm asking you is: Is
24 that what you did, just looked at this and said,
25 Yeah, they look compact?

1 A. As a starting point, yes.

2 Q. Okay. On page 20, paragraph 29, you say
3 that the contrasting compactness leads one to ask
4 why these maps of the region are so different.
5 While they may be many causes, reviewing the
6 compactness of the districts along with the
7 18-plus AP black percentages allows for analysis
8 of the impact of racial considerations. Did I
9 read that correctly?

10 A. Yes.

11 Q. What are some of those many causes you
12 refer to?

13 A. I didn't identify them, and I -- there's
14 possibilities that could be many things, but I was
15 focused on looking at the racial information
16 because, as I said, I drew the plan without racial
17 considerations. And then at this point, I added
18 them in to look at that.

19 Q. Well, other than racial considerations,
20 you said, While there may be many causes. What
21 are the many causes?

22 A. I don't have a list of many causes.

23 Q. Do you know of any of the many causes?

24 A. I -- it -- I suppose that's open to
25 interpretation.

1 Q. Did your analysis rule out any of these
2 other many causes?

3 A. I postulated that there could be other
4 causes, and I looked at one of them.

5 Q. But you didn't rule out any others; is
6 that correct?

7 A. I didn't specify what they were, so I
8 couldn't rule them out.

9 Q. Did you -- you mentioned earlier that you
10 looked at Dr. Duchin's rebuttal report yesterday;
11 is that correct?

12 A. Yes.

13 Q. Is that the first time you read her
14 rebuttal report?

15 A. I think I had been given some information
16 from it before then, but yesterday I read it in
17 full.

18 Q. When you say "given some information,"
19 what do you mean?

20 A. I mean, I had a discussion with Mr. Tyson
21 about it.

22 Q. Did you review that portion of
23 Dr. Duchin's rebuttal report that discussed her
24 experiment to examine whether there's evidence of
25 a relationship between the lack of compactness and

1 the increasing racially effective districts?

2 MR. TYSON: Object to form.

3 A. I think I looked at that portion.

4 BY MR. ROSENBERG:

5 Q. And by the way, before I ask you about
6 that, is your testimony that there is a
7 statistical correlation between compactness and
8 the creation of majority-minority districts?

9 A. I didn't say that in my report.

10 Q. So you are not opining that there is one.

11 A. I didn't say that anywhere in my report.

12 Q. So therefore, you do not have an opinion
13 that there is one; is that correct?

14 A. I didn't offer that in my report. And
15 here today, I don't know that I would offer that
16 opinion.

17 Q. What's your understanding of what
18 Dr. Duchin did in her rebuttal report in terms of
19 examining the relationship between lack of
20 compactness and racially effective or
21 majority-minority districts?

22 A. In her rebuttal report?

23 Q. Yes.

24 A. It appears to me that she had her
25 computer draw thousands of plans that were

1 apparently different from each other, and then she
2 analyzed some of those plans.

3 Q. Have you analyzed what she did there?

4 A. I don't have the data to analyze it, but
5 I read what she put in her report.

6 Q. Do you have any opinions as to what she
7 put in her report?

8 A. That's a broad question. I may have some
9 opinions about what's in her report.

10 Q. When you say you may have opinions, you
11 mean you may have opinions sitting here today?

12 A. Again, that was a broad question about do
13 I have any opinions about her report.

14 Q. Well, the question was specific. Do you
15 have any opinions about this specific aspect of
16 her report?

17 A. And what aspect is that?

18 Q. The aspect dealing with the experiment
19 that she said she did as to whether there's
20 evidence of a relationship between lack of
21 compactness and increasing majority-minority
22 districts?

23 A. Yeah. I don't know what she did in her
24 experiment, but that's clearly not what I did in
25 my report.

1 Q. Well, I understand it's different than
2 what you did in your report. Is that the extent
3 of your opinions as to what she did?

4 A. No. I looked at some of the maps that
5 she listed for visual comparison, and I have some
6 opinions on those maps.

7 Q. And what's your opinions on those maps?

8 A. I think that the example maps have many
9 districts that are odd to me and don't make a lot
10 of sense.

11 Q. And which maps are those?

12 A. The one -- the visual comparison maps
13 that are on page -- Figure 7 and Figure 8.

14 Q. Well, that's not the part of the report
15 that I'm asking about right now.

16 A. Is it not a subset of the report that --
17 of the maps that she created?

18 Q. Let me just -- I'm referring to that
19 portion of her report on page 4 to 5, Section 1.3.

20 A. Okay. And what I'm wondering is if the
21 visual maps are a part of her hundred thousand
22 steps or the maps that she created.

23 Q. Do you have an understanding of what
24 Dr. Duchin did on -- in Section 1.3 of her report?

25 A. Not really. It seems very arcane to me.

1 Q. What does "arcane" mean?

2 A. I think we understand the common
3 definition of that.

4 Q. Well, I'm not sure. I want to make sure
5 that you and I are speaking the same language.
6 What does arcane mean in the context of your
7 answer just now?

8 A. Difficult to understand, obtuse.

9 Q. I'm sorry. Difficult to understand and
10 what was the second part?

11 A. Obtuse.

12 Q. Obtuse. And any other reactions to what
13 Dr. Duchin did in Section 1.3 of her report?

14 A. I don't know at this point. I don't have
15 anything specific in mind.

16 Q. Is it your intention to analyze what
17 Dr. Duchin did in Section 1.3 of the report?

18 A. If I was given some additional data, I
19 might look at it. In my experience, I do like to
20 look at maps and that's why I was pointing out the
21 visual-comparative maps which I find interesting
22 and useful for my analysis.

23 Q. And what are the additional data that you
24 think you don't have?

25 A. For -- I don't know. She doesn't -- I

1 can't tell if she's intending to admit into the
2 record those individual plans as plans with data
3 sets.

4 Q. And how is that relevant to your concerns
5 about what she did?

6 A. Well, one of the considerations is
7 there's a discussion of the number of
8 black-majority districts. I have no basis to know
9 other than the total number that she says is equal
10 to the number of the majority-black districts in
11 the enacted plan. I have no idea or sense of what
12 those districts are, what are the ranges of the
13 black population in those districts, where are
14 they located, what -- you know, how were they
15 constructed. I have no information about that.

16 Q. Any other information you think you need?

17 A. If I were to do more analysis, I think it
18 would be useful. Because, for example, just
19 counting the numerical number of black-majority
20 districts from a numerical or mathematical
21 perspective. Again, I have no idea about the
22 basis for those districts, how were they created,
23 what minority communities are potentially
24 represented by these constructed districts.

25 Q. Anything else?

1 A. I think that covers some of the material
2 that I can think of now.

3 Q. In your report, you had mentioned that
4 there were more crossing of county lines in the
5 house- and senate-enacted plans compared to your
6 illustrative plan. But you don't mention crossing
7 county lines as being the result of an attempt to
8 create additional majority-minority districts; is
9 that correct?

10 A. I don't recall specifically saying that.

11 Q. And is there a reason you did not say
12 that?

13 A. I may have referred to it indirectly when
14 I point out that DeKalb County was -- in the
15 senate, was split into seven different districts
16 as opposed to the illustrative plan where it's
17 four.

18 Q. Other than that, did you analyze whether
19 crossing county lines was done by the map drawers
20 in any instance in order to increase the number of
21 majority-minority districts?

22 A. That's the instance that comes to mind.

23 Q. Is it possible that the number of county
24 splits was also done to decrease the effectiveness
25 of black voters in any district?

1 MR. TYSON: Object to form.

2 A. I don't know. I didn't analyze that in
3 my report.

4 BY MR. ROSENBERG:

5 Q. Now, turning back to house Region 1, you
6 undertook a comparison of a couple of individual
7 districts; is that correct?

8 A. I believe so.

9 Q. And specifically on page 22, paragraph
10 30, you discuss a comparison of your illustrative
11 District 90 with enacted plan District 89,
12 correct?

13 A. I'm sorry. What paragraph was that?

14 Q. Paragraph 22, page 30 -- oh, no, not
15 20 -- yeah -- I think that page 30 is a mistype I
16 made, but it is paragraph 22 -- oh, page 22.

17 On page 22, paragraph 30, you start off
18 by saying, Looking at some specific districts
19 shows a compactness, et cetera, et cetera, and
20 that's where you discuss comparing your
21 illustrative plan, District 90, with an enacted
22 plan and District 89; is that correct?

23 A. Yes.

24 Q. And those are the only -- that's the only
25 comparison as to your house Region 1 that you set

1 forth in narrative of your report; is that
2 correct?

3 A. Yes. It was an illustrative example.

4 Q. Did you undertake a comparison of any
5 other individual districts in Region 1?

6 A. Well, all of --

7 Q. Similar to your comparison of District 90
8 illustrative with District 89 enacted?

9 A. Well, all the compactness scores on the
10 racial information for each of the districts in
11 the region are on the charts, Chart 3 and Chart 4.
12 And also in the appendix, are the compactness
13 scores for all the districts in the illustrative
14 plan and the enacted plans.

15 Q. I understand that. But in this
16 paragraph, you actually took one district and you
17 compared it -- one district from your illustrative
18 plan and you compared it to a district in your
19 enacted plan. Did you undertake a similar
20 analysis comparing a specific illustrative plan
21 district with a specific enacted plan district in
22 Region 1 other than your comparison of 90 and 89?

23 A. As I said, all the data is available in
24 the report. And in the body text of the report, I
25 have that example that you referenced.

1 Q. Right. I understand that. Did you
2 undertake a specific comparison of one district
3 from the illustrative plan with another district
4 in your -- in the enacted plan similar to your
5 description as set forth in paragraph 30 on page
6 22 and 23?

7 A. That's the only one that's included in
8 the report.

9 Q. Did you consider comparing any other two
10 districts, one from your illustrative plan with
11 another from the enacted plan, from house
12 Region 1?

13 MR. TYSON: Object to form.

14 A. Well, again, all the data is provided in
15 the table, and it's possible for one to compare
16 any districts that one wants to compare.

17 BY MR. ROSENBERG:

18 Q. And is that -- and you're saying
19 comparing is just simply then by picking any
20 district from your illustrative plan and comparing
21 it with any district from the enacted plan
22 according to APB and compactness scores?

23 A. No. That's not what I said. I'm saying
24 that you could compare any district you want. But
25 in the case that I chose, I picked districts that

1 were in the same geographic area.

2 Q. Okay. Now, we're getting a little
3 closer. Did you undertake any analysis of any
4 other two districts that were in the same
5 geographic area from Region 1, similar to the
6 analysis that you set forth in paragraph 30?

7 A. As I said, I have the one example in the
8 text of the report.

9 Q. So is the answer that you did not make
10 any other comparison of two districts in the same
11 geographic area from your illustrative plan in
12 Region 1 compared to the enacted plan in Region 1
13 other than that which is set forth in paragraph 30
14 on pages 22 to 23?

15 A. Again, that is the example that I
16 included in the text of the report.

17 Q. That's not my question. I understand
18 that is the example. My question is: Did you
19 compare any other two districts that were in the
20 same geographic region, one from your illustrative
21 plan and the other from the enacted plan other
22 than the two that are described in paragraph 30?
23 It's a yes or no question.

24 A. Okay. The answer is I don't think so,
25 but I'm not sure. I don't recall.

1 Q. Okay, thank you. Thank you. Now, why
2 did you select these two districts?

3 A. Well, again, I talked a lot about how the
4 districts in DeKalb County are elongated, and I
5 pointed out that district as an example of one
6 that is elongated, and I provided the information
7 about that district and the comparable district in
8 the illustrative plan.

9 Q. And why did you think it was comparable?

10 A. Because it's the same geographic area and
11 the black percentage is lowered by elongating the
12 district.

13 Q. So you chose those two because you looked
14 at the map, and you saw that one district was
15 elongated and that you believed that that
16 elongation is for the creation of another black
17 district; is that correct?

18 MR. TYSON: Object to form.

19 A. What I point out in the text of my report
20 is that the district in the enacted plan is
21 lowered by connecting a heavily black-populated
22 area to an area that's less heavily populated with
23 black population to the north.

24 BY MR. ROSENBERG:

25 Q. And by the way, what district are you

1 talking about that was created in the enacted plan
2 that you are stating was created because of the
3 elongation of enacted plan house District 89?

4 A. It is District 89; that's the one.

5 Q. And you're saying that that is what is
6 the -- is the majority-minority district that was
7 created by the elongation; is that correct?

8 A. The enacted plan, District 89, has a
9 Reock compactness score, reading from my report,
10 of .14 and Polsby-Popper of .1, and the district
11 is 62 percent black. In that same area in the
12 illustrative plan, the District 90 in southern
13 DeKalb is .4, Polsby-Popper; .4, Reock; and it's
14 94.9 percent voting-age black population. So I
15 would say that -- pointing out that the map
16 drawers did not create a 94.9 percent black
17 district. Instead they created a 62.5 percent
18 black district.

19 Q. Are you saying that there were no other
20 factors that can explain the compactness of
21 District 89 other than the creation of another
22 majority-minority district?

23 A. I didn't state that in my report.

24 Q. Could changes in other districts within
25 the region that you do not analyze affect the

1 compactness score of the specific districts that
2 you do analyze?

3 A. I suppose. I looked at that district and
4 the other -- there are several districts that are
5 elongated in that region as well.

6 Q. Could changes in districts that are
7 outside the region that you did not analyze affect
8 the compactness scores of the specific districts
9 within the region that you selected to analyze?

10 A. I don't believe so.

11 Q. You say on page 23, paragraph 30 that
12 this allows the black -- and this relating to the
13 compactness -- lack of compactness, allows the
14 black population to be redistributed and to create
15 other majority-black districts, right?

16 A. Yes.

17 Q. Did you do any analysis to determine
18 whether this was actually the case?

19 A. I believe that to be the case based on my
20 experience and the work I did in analyzing the
21 districts that were drawn in the enacted plan and
22 the illustrative plan.

23 Q. When you say your experience, what do you
24 mean?

25 A. My experience is one of the techniques

1 that map drawers use to lower the black population
2 of a prospective district is to include areas of
3 lower concentrations of African-American voters.
4 And that, to me, is exactly what's happening in
5 the DeKalb County area.

6 Q. Now, other than your analysis of what's
7 happening in DeKalb County, are you drawing any
8 broader conclusions as to what happened elsewhere
9 in the house redistricting in terms of the
10 creation of additional majority-minority
11 districts?

12 A. In this specific report, I'm comparing
13 the illustrative plan to the enacted plan. In
14 other reports, I've compared other plans to the
15 enacted plans and I've seen evidence of this type
16 of technique being used in the drafting of those
17 other plans.

18 Q. What other reports are you referring to?

19 A. I'm referring to the reports in the Alpha
20 case and the Grant cases.

21 Q. But not in the Georgia NAACP case or the
22 Common Cause case; is that correct?

23 A. Well, actually, in the context of this
24 report, which I filed on December 5th, I did not
25 have Dr. Duchin's report. So I didn't look at her

1 district's configurations when considering my
2 opinion about the illustrative plan that I drew
3 and the enacted plan.

4 Q. Right. But then my question was: Other
5 than your analysis comparing your illustrative
6 plan with the enacted plan for house Region 1,
7 insofar as you focused on this one district in
8 DeKalb County, did you focus on districts outside
9 of DeKalb County in terms of Region 1?

10 A. Yes. But it includes DeKalb County. The
11 enacted district that includes Rockdale -- I can't
12 quite read it -- 93, I think, includes a portion
13 of DeKalb, Rockdale and Newton.

14 Q. And are you saying that they were more
15 majority-minority districts, other than District
16 89, that were created by what you say was a lack
17 of compactness?

18 A. I believe so. I believe the Rockdale
19 district that I just described is an example of
20 that.

21 Q. Did you analyze whether there were a
22 dilution of black votes by spreading them out
23 among several districts in any place in the
24 house-enacted map?

25 MR. TYSON: Object to form.

1 A. That was not something I looked at in my
2 report of 12/05 in this case.

3 BY MR. ROSENBERG:

4 Q. Did you do an analysis anyplace in terms
5 of the senate-enacted plan?

6 MR. TYSON: Same objection.

7 A. I didn't do that type of analysis in this
8 report of 12/05.

9 BY MR. ROSENBERG:

10 Q. Did you do that analysis anyplace?

11 A. In the other reports, I have compared the
12 enacted plan to other plans that I've seen.

13 Q. And when you say "the other reports,"
14 again, you're referring to the -- your rebuttal
15 reports in the Grant and Pendergrass cases?

16 A. I believe so and possibly in the initial
17 reports as well. When I say "initial reports," I
18 produced some information in the preliminary
19 injunction phase that was submitted in the style
20 of a report. If it wasn't a report, it was maybe
21 an affidavit. I'm not sure what the distinction
22 is.

23 Q. But not in this case?

24 A. Not in this case.

25 Q. On page 29, paragraph 33, turning to

1 house Region 2, you, again, select a single
2 district and compare it with what you call
3 comparable district. And in that case, you're
4 comparing illustrative District 59 -- your
5 illustrative District 59 with enacted District 59.
6 Do you see that?

7 A. I'm not sure -- 29, okay. Okay, I see.
8 I was looking in the wrong spot, okay.

9 59 --

10 Q. And again, what do you mean by
11 "comparable district"?

12 A. A district that's in the same geographic
13 area.

14 Q. Were there other comparable districts to
15 District 59 other than enacted District 59?

16 A. I suppose one could argue that the
17 district to the south -- this is a little hard for
18 me to read, so I can't make out the number here.
19 It's possible there's two districts.

20 Q. And what are you looking at, Mr. Morgan?

21 A. I'm looking at page 26, Map 6,
22 house-enacted plan Region 2.

23 Q. Okay. Maybe we can go by color. I agree
24 with you. I can hardly read this myself.

25 A. We can zoom in on the electronic copy.

1 MR. TYSON: And from looking at the
2 computer --

3 MR. ROSENBERG: Alex is doing that right
4 now.

5 THE WITNESS: Okay.

6 MR. TYSON: And looking at this on my
7 screen, Ezra, it looks like District 59 on the
8 enacted plan is a, kind of, lime green color in
9 the middle of Fulton County. Is that what we're
10 looking for, or we're looking for 58?

11 THE WITNESS: No, no. That's correct.

12 MR. TYSON: Okay.

13 A. So in my report, I specified 59 to 59 and
14 I suppose another comparable district might be
15 District 58. From my point of view, if you start
16 with the illustrative plan, in the illustrative
17 plan that I drew, District 59, Map 5, page 25, I'm
18 looking at that area, which is District 59. And I
19 chose the comparable district, which is also in
20 green, of 59. It's probably an argument that
21 District 58 could also be in the similar region.
22 And again, starting from the illustrative plan,
23 which is the way that I was looking at this.

24 BY MR. ROSENBERG:

25 Q. Did you do an analysis comparing 58 with

1 59?

2 A. Well, let me see. I could do that. So
3 the --

4 MR. TYSON: Just say what you're looking
5 at too.

6 A. I'm referring to Chart 7 on page 28, and
7 District 58. The African-American percentage is
8 63. The Reock score is .13, and the Polsby-Popper
9 is .13. And that's comparing to 59 in the
10 illustrative plan, which is African-American
11 percent 88.6; Reock is .41 and the Polsby Popper
12 is .36. So I suppose you could look at District
13 58 and I think you could make a case that that's
14 in the same geographic area as well.

15 BY MR. ROSENBERG:

16 Q. Going back to Region 1 --

17 A. Okay.

18 Q. -- is there any -- are there any
19 comparable districts to District 89 in the --
20 that -- and you compared 90 to 89. Are there any
21 comparable districts that you could have compared
22 your illustrative 90 to?

23 A. Possibly District 84 in the enacted plan.
24 That has some of the same territory and District
25 90 in the illustrative plan. And that is on page

1 22, Chart 4, the African-American-percent voting
2 age is 73.7; the Reock is .25, and the
3 Palsby-Popper is .2.

4 Q. How about District 90?

5 A. I think 90 probably corresponds more
6 closely to the illustrative plan 89 on page 19,
7 Map 3.

8 Q. And why is that?

9 A. It -- they cover more approximately the
10 same territory.

11 Q. In turning to page 44 -- page 41,
12 paragraph 44, in your senate comparisons, you
13 chose to compare in your report District 55 with
14 enacted District 10; is that correct?

15 A. Yes.

16 Q. And again, why did you believe those were
17 comparable?

18 A. Because I'm looking at the area in
19 southern DeKalb, which is in the illustrative
20 version of District 55, and the enacted District
21 10 has that same area of southern DeKalb.

22 Q. Well, it also has some of Henry County,
23 doesn't it?

24 A. Yeah. It has a big section of Henry
25 County. It follows the county line and stripes

1 south into Henry County.

2 Q. Let's go to your ultimate conclusion on
3 page 48, page 42, where you say, My review of the
4 enacted house and senate plans combined
5 withdrawing the blind illustrative plans
6 demonstrates the tendency that racial
7 considerations had an effect on district
8 composition and district shapes in the enacted
9 plans. What does the word "tendency" mean in your
10 conclusion?

11 A. That particularly in the areas of high
12 concentration of African-Americans, the enacted
13 plan -- again, DeKalb is the easiest one I'd go
14 back to, to point to. But it takes that area of
15 high concentration and it pies it out into other
16 areas with lower concentration, District 10, 44,
17 42, 41, 55, and 43 all are -- have that same core
18 of DeKalb County African-American population.

19 Q. To your knowledge, did the people who
20 drew the Georgia maps take partisan considerations
21 into account in their drawing of the districts?

22 A. I don't know.

23 Q. If those who are involved with drawing
24 maps have testified that partisan considerations
25 were taken into consideration when drawing some of

1 the maps, would you have a basis to disagree with
2 them?

3 A. I don't have any basis to disagree or
4 confirm that.

5 Q. And in fact, according to your analysis
6 in your rebuttal report, the enacted maps created
7 more Republican districts; isn't that correct?

8 A. More than what?

9 Q. More than -- well, certainly more than
10 the illustrative plans of Dr. Duchin?

11 A. Oh, clearly. She had many more
12 Democratic-leaning districts than the enacted
13 plan.

14 Q. Assuming that legislators wanted to
15 create more Republican districts, do you think it
16 is more likely that they would move populations
17 based on race to create more performing black
18 districts or more likely that they would move
19 populations based on race in order to create fewer
20 performing black districts?

21 MR. TYSON: Object to form.

22 A. I really have no idea. There's many
23 possibilities to achieve that hypothetical goal
24 that you're postulating.

25 BY MR. ROSENBERG:

1 Q. Does your analysis rule out the
2 possibility that if legislators wanted to create
3 more Republican districts that they would do that
4 by moving populations based on race in order to
5 create fewer performing black districts?

6 A. I didn't perform any kind of political
7 analysis, other than in the rebuttal report, where
8 I tallied the number of districts in the enacted
9 plan and compared them to those of Dr. Duchin.

10 Q. I'd like to turn to Dr. Duchin's rebuttal
11 report, which is Exhibit 4, and specifically the
12 chart on Section 1.2, page 3. Do you see that?

13 A. Yes.

14 Q. Do you dispute any of Dr. Duchin's
15 calculations in this chart?

16 A. I -- her definition of effective
17 opportunity was not apparent to me from this
18 report, but my understanding is that it's
19 contained elsewhere in her other report.

20 Q. So you don't have a basis because you
21 don't recall how she defined it in the other
22 report. Is that what you're saying?

23 A. My understanding is that it's related to
24 winning or losing a series of statewide races and
25 that somehow that imputes effectiveness --

1 effective opportunities for minority candidates.

2 Q. And that was in her original report. Is
3 that your understanding?

4 A. That's my understanding. There were some
5 charts along that line that I saw.

6 Q. And you did not respond to that portion
7 of her report in your -- strike that.

8 This is -- that you did not respond to
9 the -- her effectiveness analysis that was set
10 forth in her original report in your rebuttal
11 report; is that correct?

12 A. No. I didn't set out to make an analysis
13 along those lines, but I did -- I did, in my
14 report, show some summary information with racial
15 demographics, splits, and political information
16 and compactness.

17 Q. And other than your inability to address
18 the effective opportunity column here, do you
19 dispute any other portion of Dr. Duchin's charge
20 as set forth in Section 1.2 on page 3 of her
21 rebuttal report?

22 A. Well, I wouldn't characterize it as an
23 inability. I did not set out to analyze that
24 portion of her report, so I can't say that I was
25 unable to do that.

1 Q. Other than you're not responding to the
2 effective opportunity column for the reasons you
3 just said, do you have any other disputes with any
4 of the calculations of Dr. Duchin in the chart on
5 Section 1.2 of her rebuttal report?

6 A. The chart itself I believe to be a
7 summary of information that was contained in other
8 reports. However, I've not independently
9 confirmed her assertion about the majority
10 black-Hispanic citizen voting-age population of
11 the districts that I drew in my illustrative
12 plans.

13 Q. Other than that, any other issues with
14 that chart?

15 A. Again, it appears to be a summary of
16 racial data, and then the effective opportunity,
17 which I discussed, is based on her definitions
18 from a previous report.

19 Q. Let's go to your rebuttal report, which
20 is marked as Exhibit Number 2. And on paragraph
21 5, you say, I have been asked to review the
22 congressional, house of Representatives and State
23 senate plans considered and adopted by the Georgia
24 General Assembly and compare them to the proposed
25 congressional, house of Representatives and State

1 senate plans considered and adapted by the Georgia
2 General Assembly and compare them to the proposed
3 congressional house and senate plans drawn by
4 Dr. Moon Duchin and offer opinions regarding my
5 analysis. Do you see that?

6 A. Yes.

7 Q. And in the next paragraph, paragraph 6,
8 on page 3, you say, As a result of this analysis,
9 it is my opinion that each of the plans submitted
10 in Dr. Duchin's report and the unity plans has a
11 significant increase in Democratic performance
12 when compared to the enacted plans. Did I read
13 that correctly?

14 A. Yes.

15 Q. Are there any opinions, other than that
16 set forth in paragraph 6 in your rebuttal report,
17 that you intend to provide at trial that you have
18 reached as a result of your review of Dr. Duchin's
19 report?

20 A. In reviewing her reports, the information
21 I have provided in my report is that that you read
22 in paragraph 6, and that is what's included in my
23 report.

24 Q. Did you review Dr. Duchin's data that was
25 supplied with her original report?

1 A. I reviewed the block assignment file data
2 that I uploaded into my Maptitude report. I
3 looked at her report, and I looked at some of the
4 data that was in that report. But primarily for
5 my analysis, I used the block assignment files
6 that she provided for the 10 plans referenced in
7 the reports.

8 Q. You note that you were provided with
9 election data files used by the Georgia General
10 Assembly. You say that in paragraph 8 of this
11 report -- I mean, I'm sorry -- paragraph -- is it
12 7, I guess -- 6 -- oh, I'm sorry.

13 Well, let me just ask the question: Were
14 you provided with -- Okay. Now, I've got it -- in
15 paragraph 4, you say you were provided with
16 election data files used by the Georgia General
17 Assembly during the redistricting process. What
18 files were those?

19 A. Those were given to me by counsel. They
20 were part of the data that was uploaded into
21 Maptitude for me to draw plans and to analyze
22 other plans.

23 Q. And can you describe what that data
24 consisted of?

25 A. I believe they were election results for

1 elections from 2018 and 2020.

2 Q. And election results, you said?

3 A. Yes.

4 Q. In 2018 and 2020. Did you have access to
5 more elections than -- so you did have access to
6 more elections than just the Trump-Biden and the
7 PSC elections in 2020; is that correct?

8 A. Yes.

9 Q. In your tables that begin on page 5, you
10 talk about county splits. You don't talk about
11 the number of pieces that counties were split
12 into. Do you think that county pieces is relevant
13 to assessing whether redistricting was done in
14 accordance with traditional districting
15 principles?

16 A. It's another data point that can be
17 discussed. I would say that it's -- again, it's
18 just another piece of data. Sometimes I find it
19 interesting because some map drawers will look at
20 the county splits and, for example, remove a
21 county split but then introduce another county
22 division in a county that's already been split.
23 So I think that gets to your point that there can
24 be a difference or is a difference between a split
25 county and the number of splits of a county.

1 Q. And if there were more splits -- strike
2 that.

3 The number of splits would indicate even
4 more deviations from traditional districting
5 principles than simply the number of counties that
6 were split, correct?

7 A. No. I wouldn't --

8 MR. TYSON: Object to form.

9 A. I wouldn't agree with that. I think it
10 really depends on the metrics that the legislature
11 or the governing body is used to looking at. In
12 my experience, the county split metric is
13 something that's fairly simple and easy to explain
14 and understand. When you get to these other types
15 of splits, it can be more complicated and a little
16 more difficult to explain.

17 BY MR. ROSENBERG:

18 Q. By the way, are there any noncontiguous
19 counties in Georgia?

20 A. My understanding is that there are some,
21 yes.

22 Q. Did you take that into consideration in
23 calculating your county splits?

24 A. I ran the reports that came from
25 Maptitude, so I'd have to look at that and see how

1 that affects the calculations.

2 Q. And we already talked a little bit about
3 voting precinct splits on these tables; that's
4 based on the VTD data, correct?

5 A. Yes. It's based on the data that I was
6 given by counsel that was represented to me as the
7 data that was used in the legislative process, and
8 it's based on the VTDs or precincts that were in
9 place at the time of redistricting.

10 Q. And again, you did not calculate the
11 number of pieces that precincts were split into;
12 is that correct?

13 A. That's not true. In the report, I think
14 some of that information is given. Like, you can
15 extract it from some of the Maptitude reports. I
16 didn't bring it up into the body of the report,
17 but I believe some of that information is provided
18 in the appendices in the reports.

19 Q. Now, you analyzed the number of districts
20 won by Biden and by Trump and the number of
21 districts won by Bryant and Shaw in the PSC
22 election, right?

23 A. Yes.

24 Q. Why did you decide to use those two
25 elections for purposes of your comparison?

1 A. Well, in my experience, when I work with
2 legislators for purposes of drawing plans that
3 they would use for elections, the legislators and
4 stakeholders often look at the presidential
5 result. That is almost always in my experience an
6 important race to them. As far as the public
7 service commissioner, generally, those are seen to
8 be a partisan election with lesser-known
9 candidates.

10 And in my experience, public service
11 commissioners and similar statewide elections for
12 lower offices are useful indicators of partisan
13 strength. So I chose that election and the
14 presidential.

15 Q. Do you know how close the Bryant and Shaw
16 election was?

17 A. I'd have to look at the data, but I
18 believe that Shaw won. I think it was close.

19 Q. Did you run any comparisons using more
20 than just those two elections?

21 A. No. Those are the two that I chose. I
22 thought presidential made sense, and I thought
23 that the statewide public service commissioner
24 made sense.

25 Q. And was that your decision?

1 A. Yes.

2 Q. Did you consider analyzing the districts
3 on the basis of effectiveness for black voters?

4 A. No. That was not any type of analysis
5 that I was -- considered doing.

6 Q. Do you have an opinion as to whether you
7 analyzed -- as to whether -- if you did analyze
8 the districts on the basis of effectiveness for
9 black voters, whether you'd get similar numbers to
10 the number of districts in your charts that were
11 won by Biden?

12 A. I don't understand. The number of
13 districts won by Biden are the number of districts
14 won by Biden. It wouldn't change.

15 Q. I understand. I'm not saying -- ask you
16 whether the number of districts won by Biden would
17 change. I asked you whether your opinion -- as to
18 whether if you analyzed the districts on the basis
19 of effectiveness of black voters, whether that
20 would produce numbers similar to the number of
21 districts in your charts that were won by Biden?

22 MR. TYSON: Object to form.

23 A. I have no idea.

24 BY MR. ROSENBERG:

25 Q. Did you do any analyses of the

1 demonstrative districts in Dr. Duchin's first
2 report that were coalition districts?

3 A. Well, in the sense that they were
4 contained in her entire plan, I did the analyses
5 that I reported in my report.

6 THE WITNESS: If there's no pending
7 question, can I take a break, please?

8 MR. ROSENBERG: Sure. How long would you
9 like, Mr. Morgan?

10 THE WITNESS: Six to eight minutes.

11 MR. ROSENBERG: You got it. You're very
12 precise.

13 THE VIDEOGRAPHER: Stand by. The time is
14 2:22 p.m. We are off video record.

15 (Recess)

16 THE VIDEOGRAPHER: The time is 2:33 p.m.
17 We are back on video record.

18 BY MR. ROSENBERG:

19 Q. Hi, Mr. Morgan. I -- going back to your
20 charts on pages 5 through -- I believe it's 13 or
21 so of your rebuttal report. In each of those
22 charts, you compare Dr. Duchin's plans with the
23 enacted plans on the basis of various percentages
24 of APB over 18; is that correct?

25 A. Yes.

1 Q. Why did you undertake that comparison?

2 A. In the preliminary injunction hearing, I
3 had provided similar information. And then also
4 in my illustrative report of 12/05, I had provided
5 information using breakdowns similar to that.

6 Q. Again, when you talk about the
7 preliminary injunction, you're talking about the
8 preliminary injunction in the Grant and
9 Pendergrass case; is that correct?

10 A. Yes. Sorry for not clarifying that.

11 Q. And when you talk about your 12/05
12 report, again, that's a report from those cases;
13 is that correct?

14 A. No, that's in this case here, the
15 illustrative plan. I think you made it Exhibit 1
16 in today's deposition.

17 Q. Oh, I see. So you're referring back to
18 that plan in terms -- that report in terms of your
19 having referred to percentages of APB over 18.

20 A. Yes, that's correct. And for example,
21 Chart 1 in that exhibit, it shows the breakdowns
22 from 90 percent, 80 to 90, 70 to 80, et cetera.

23 Q. And when you're saying "Chart 1," you're
24 now looking at your rebuttal report?

25 A. No. I'm looking at the Exhibit 1, my

1 initial report of 12/05.

2 Q. On page 17?

3 A. 17.

4 Q. Yeah, okay.

5 MR. TYSON: And, Ezra --

6 MR. ROSENBERG: Well -- yeah?

7 MR. TYSON: Just to clarify, I know we've
8 referenced Grant and Pendergrass. The legislative
9 plan preliminary injunctions were Alpha Phi Alpha
10 and Grant, Pendergrass related to congressional.
11 So it was really all three of those that were the
12 preliminary injunction.

13 Exhibit 1 in Mr. Morgan's report here is
14 offered in Alpha, in Grant, and in Georgia NAACP
15 because all of those relate to legislative
16 districts. So just so the record's clear on, kind
17 of, which cases each piece relates to. I thought
18 we should probably clarify that.

19 MR. ROSENBERG: Okay, thank you.

20 BY MR. ROSENBERG:

21 Q. How does the comparison in Chart 1
22 through Chart 10 in your rebuttal report relate to
23 your overall conclusion in the rebuttal report as
24 set forth in paragraph 6 of your rebuttal report?

25 A. Well, as I stated, I ran maps to do the

1 reports and I provided the information from those
2 reports. And in my conclusion, I observed what I
3 did about the increase in Democratic performance.
4 So to the extent that that's the conclusion,
5 that's the conclusion. But I did the entire
6 analysis by running all of these reports.

7 Q. I understand. What is it about the data
8 that's set forth as to 18-plus APB, according to
9 the different percentages on those charts that
10 relates, if at all, to your overall conclusion?

11 A. Well, during the process of analyzing
12 Dr. Duchin's plans and comparing them to the
13 enacted plans, I did have the information on the
14 AP black percentages. And I noticed that in her
15 report and then subsequently in my report when I
16 looked at the political information I did notice
17 that there was an increase in Democratic
18 performance, although most of her report was
19 dealing a lot with the racial component of
20 districts.

21 Q. What is the relevance -- your
22 understanding of the relevance of whether or not
23 the districts relate to Democratic performance to
24 this case?

25 A. The -- I would say that there's some

1 information that I reported on the performance,
2 and it could be useful in this case to the court
3 to have that information.

4 Q. Was it your idea to look for that
5 information to support that conclusion?

6 MR. TYSON: And I'll just object to the
7 extent that calls for conversations with counsel
8 and drafts of your report. If there's a
9 non-privileged answer you can give, you can give
10 it.

11 A. Yes. I chose to look at the political
12 information.

13 BY MR. ROSENBERG:

14 Q. And why did you choose to look at the
15 political information?

16 MR. TYSON: Same objection.

17 A. Okay. I thought it would be useful to
18 have that information before the court.

19 BY MR. ROSENBERG:

20 Q. Why did you think it would be useful to
21 have that information before the court?

22 A. I found it interesting. In my
23 experience, in my line of work, I think that's an
24 interesting thing to look at to see the political
25 performance of plans.

1 Q. Why did you think it's interesting to see
2 the political performance of plans in connection
3 with any of the issues in this case?

4 A. Again, that's something that I noticed.
5 When I looked at the data, I noticed that there
6 was an increase in Democratic performance.

7 Q. And what relevance is that issue to this
8 case in your opinion?

9 MR. TYSON: I'll object to form.

10 A. I'm not sure what relevance the court
11 will place on it, but I think it's useful
12 information to have.

13 BY MR. ROSENBERG:

14 Q. What relevance do you place on it?

15 MR. TYSON: Object to form.

16 A. From my point of view, I think it's
17 interesting that while a lot of issues discussed
18 seem to be racial, the political aspect seems
19 relevant as well.

20 BY MR. ROSENBERG:

21 Q. By the way, did you do an effectiveness
22 analysis of any of the districts in Dr. Duchin's
23 report?

24 MR. TYSON: Object to form.

25 A. It's not in my report, and I didn't do

1 that.

2 BY MR. ROSENBERG:

3 Q. Did you do any analysis to determine how
4 many of the districts are majority-minority
5 districts when taking into account Hispanic
6 populations?

7 A. No. That information is not in my
8 report.

9 Q. Are you offering an opinion that
10 partisanship motivated the drawing of the enacted
11 plans?

12 A. I didn't say that in my report.

13 Q. So you are not offering such an opinion?

14 A. It's not in my report. I'm not currently
15 offering that opinion. I -- It's -- I haven't
16 analyzed it in that context.

17 Q. Now, did you review the portion of
18 Dr. Duchin's report that discussed the Gina Wright
19 deposition?

20 A. Yes. I read through that.

21 Q. And just so for the record -- hold on one
22 second. I'd like to make sure I get this correct.

23 MR. DAVIS: Since we're going back to the
24 rebuttal report, Mr. Morgan's rebuttal report, I
25 just wanted to state for the record that a

1 corrected rebuttal report is in the marked exhibit
2 files marked as 4 corrected, and it has all the
3 pages that Mr. Tyson indicated.

4 Thank you for letting us know that,
5 Mr. Tyson?

6 MR. TYSON: Great. Thank you for making
7 that correction.

8 BY MR. ROSENBERG:

9 Q. Now -- and I'm looking at pages 6, 7, 8,
10 9 and 10 of Dr. Duchin's report. Did you review
11 this -- that portion of the report?

12 A. I read through it.

13 Q. And you read through it for the first
14 time yesterday or before that?

15 A. Yesterday, primarily.

16 Q. Do you have an understanding of the
17 analysis that Dr. Duchin undertook in this portion
18 of her supplemental report?

19 A. I read through the report. I don't know
20 what to say about the analysis.

21 Q. And when you say you don't know what to
22 say about the analysis, does that mean you really
23 don't know what to say about the analysis so you
24 cannot say anything about the analysis?

25 A. Well, I didn't analyze the enacted plan

1 or Dr. Duchin's plans in the way that -- the type
2 of analysis that she has done.

3 Q. Do you intend to offer any opinions at
4 trial on this analysis?

5 A. I don't know. I don't have anything in
6 my report. And at this time, I don't have
7 anything to say about it.

8 Q. Have you drawn any conclusions as to what
9 you might need to know in order to say something
10 about it?

11 A. I would probably want to look in more
12 detail at the plans that she offers and the
13 enacted plans, and that level of detail I didn't
14 look at for my report. So I don't know if that
15 would contemplate a rebuttal to the rebuttal
16 report or if that's even possible. But I didn't
17 have access to her rebuttal report to do any kind
18 of analysis.

19 MR. ROSENBERG: Okay. Well, I'm going to
20 ask for a short break right now. I might be just
21 about done with my questioning, but I wanted to
22 take a break and -- and I don't know if
23 Mr. Genberg has some questions, but why don't we
24 take about a ten-minute break right now.

25 MR. TYSON: Okay.

1 THE VIDEOGRAPHER: Stand by. The time is
2 2:44 p.m. We are off video record.

3 (Recess)

4 THE VIDEOGRAPHER: The time is 2:58 p.m.
5 we are back on video record.

6 MR. ROSENBERG: I just want to clear up
7 one thing. I'm not sure if it was something you
8 said, Brian, or Mr. Morgan, where you referred to
9 the reports in other cases as being an exhibit and
10 the report in this case, and we do not have a
11 record of that. I wanted to make sure if I
12 misheard that.

13 MR. TYSON: No. Just to make it clear,
14 Ezra, Exhibit 1, Mr. Morgan's principal report in
15 the case, you see that captions has both Alpha,
16 Grant, and Georgia NAACP on it. It was -- the
17 same Exhibit 1 from Georgia NAACP was also filed
18 in the Alpha and the Grant cases. That's all I
19 was trying to say.

20 MR. ROSENBERG: By Exhibit 1, you mean
21 his CV?

22 THE WITNESS: No.

23 MR. TYSON: Exhibit 1 --

24 THE WITNESS: In the deposition. You --
25 I think you designated this deposition, my initial

1 report, as Exhibit 1.

2 MR. TYSON: Right.

3 MR. DAVIS: You saying that -- what he's
4 saying what's labeled Exhibit 1 in the Exhibit
5 Share, he's saying is marked as Exhibit 1 in the
6 Exhibit Share, which is his opening report. The
7 caption is for Alpha Phi Alpha, Grant, and Georgia
8 NAACP; is that right?

9 MR. TYSON: That's correct. And this
10 report was filed in all three of those cases. So
11 that was the only thing I was trying to make
12 clear.

13 MR. ROSENBERG: Okay, fine. Thank you
14 very much. And I have no further questions of
15 Mr. Morgan. Thank you very much for your time
16 today.

17 THE WITNESS: Thank you.

18 THE VIDEOGRAPHER: Any follow-ups?

19 MR. TYSON: Did Mr. Genberg have
20 questions?

21 MR. ROSENBERG: I believe he does not.

22 MR. GENBERG: I do not.

23 MR. TYSON: I don't have questions
24 either, so that will complete all the people who
25 could have questions today.

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THE VIDEOGRAPHER: The time is 2:59 p.m.
We are off video record.
(Deposition concluded at 2:59 p.m.)
(Signature reserved)

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CERTIFICATE

STATE OF GEORGIA:
COUNTY OF FULTON:

I hereby certify that the foregoing transcript was taken down, as stated in the caption, and the colloquies, questions and answers were reduced to typewriting under my direction; that the transcript is a true and correct record of the evidence given upon said proceeding.


I further certify that I am not a relative or employee or attorney of any party, nor am I financially interested in the outcome of this action.

I have no relationship of interest in this matter which would disqualify me from maintaining my obligation of impartiality in compliance with the Code of Professional Ethics.

I have no direct contract with any party in this action and my compensation is based solely on the terms of my subcontractor agreement.

Nothing in the arrangements made for this proceeding impacts my absolute commitment to serve all parties as an impartial officer of the court.

This the 20th day of March 2023.



Valerie Almand, CRR, RPR, CRC, B-531

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ALPHA PHI ALPHA FRATERNITY
INC., *et al.*,

Plaintiffs,

v.

BRAD RAFFENSPERGER,

Defendant.

CIVIL ACTION FILE NO.
1:21-CV-05337-SCJ

ANNIE LOIS GRANT, *et al.*,

Plaintiffs,

v.

BRAD RAFFENSPERGER, *et al.*,

Defendants.

CIVIL ACTION FILE NO.
1:22-CV-00122-SCJ

GEORGIA STATE CONFERENCE OF
THE NAACP, *et al.*

Plaintiffs,

v.

STATE OF GEORGIA, *et al.*,

Defendants.

Case No. 1:21-CV-5338-ELB-
SCJ-SDG

EXPERT REPORT OF JOHN B. MORGAN

Pursuant to 28 U.S.C. § 1746, Federal Rule 26 (a)(2)(B), and Federal Rules of Evidence 702 and 703, I, JOHN B. MORGAN, make the following declaration:

INTRODUCTION

1. My name is John B. Morgan. I am over the age of 21 years, and I am under no legal disability which would prevent me from giving this declaration. If called to testify, I would testify under oath to these facts and opinions.

2. I hold a B.A. in History from the University of Chicago. As detailed in my CV, attached as Exhibit 1, I have extensive experience over many years in the field of redistricting. I have worked on redistricting plans in the redistricting efforts following the 1990 Census, the 2000 Census, the 2010 Census and the 2020 Census. I have testified as an expert witness on demographics and redistricting.

3. I am being compensated at a rate of \$325 per hour for my services in this case.

4. The redistricting geographic information system (GIS) software package used for this analysis is Maptitude for Redistricting 2021 from Caliper Corporation. The redistricting software was loaded with the census PL94-171 data from the Census Bureau and the census geography for Georgia. I was also provided with election data files used by the Georgia General Assembly during the

redistricting process. The full suite of census geography was available, including counties, places, voting districts, water bodies, and roads, as well as census blocks, which are the lowest level of geography for which the Census Bureau reports population counts. Census blocks are generally bounded by visible features, such as roads, streams, and railroads and they can range in size from a city block in urban and suburban areas to many square miles in rural areas.

SCOPE AND DATA

5. I have been asked to review the House of Representatives and State Senate plans considered and adopted by the Georgia General Assembly. I was asked to draw a “blind” plan that did not consider race or incumbency or past redistricting plans for Georgia. This plan did consider other traditional redistricting principles. Using my expertise, I proceeded to draw a plan for the House and then a plan for the Senate. I then compared the illustrative plans to the enacted plans and drew conclusions about the impact of racial considerations on the enacted plans.

6. In preparing this analysis, I was given the block-equivalency files of the 2021 adopted plans and incumbent databases used by the Georgia General Assembly during the redistricting process. The incumbent databases list the address locations and districts of the Representatives and Senators serving prior to the 2022 elections under the existing House (2015-enacted) and Senate (2014-enacted) plans.

I was also given the redistricting guidelines used by the Georgia General Assembly during the redistricting process.

7. I loaded the 2021 House and 2021 Senate plans enacted by the Georgia General Assembly into the Maptitude for Redistricting software using the block-equivalency files provided. I loaded the incumbent databases provided.

8. Using the Maptitude for Redistricting software, I created district summary files for the 2021 adopted plans. These summary files listed information for each district such as: the deviation from ideal district size, total population, and percentages for black population, any-part Black voting age population.

REDISTRICTING PROCESS AND SOFTWARE

9. The mapping software is a significant tool in the redistricting process. How does the geographic information system (GIS) software work to help the map drawer? At its core, there is a geographic hierarchy and a corresponding data hierarchy. It can be said that the data is attached to geographic units. Starting with a state, the state is subdivided into non-overlapping geographic units of counties (or parishes, in Louisiana and boroughs in Alaska). In some states, counties are subdivided into non-overlapping geographic units of townships or municipalities. (This type of subdivision of counties is typical in New England, mid-Atlantic and

midwestern states.) The federal government, via the Bureau of the Census, generally adopts the state-established boundaries for counties, parishes, and boroughs.

10. Below the level of the county there are towns, townships, and cities - these county subdivisions are generally referred to by the Census Bureau using the term minor civil division (MCD). (The Census Bureau also generally adopts state-established boundaries for incorporated and unincorporated places, which might not fit into the hierarchy.) Where the state does not have these county subdivisions, the Census Bureau generally establishes a county subdivision (MCD) for the state. The Census Bureau establishes the boundaries of smaller units such as census tracts, census block groups and census blocks.

11. Thus, the Census Bureau creates a complete geographic hierarchy coverage of each state, which can be envisioned this way:

state > county > MCD > census tract > census block group > census block

However, multiple hierarchies can be established within a state for different administrative needs such as schools, taxing authorities, voting, transportation, environmental concerns, etc.

12. Here is school hierarchy concept:

State > county > high school attendance area > intermediate school attendance area > elementary school attendance area

13. Here is an election administration hierarchy concept:

State > county > voting precinct > voter

14. In my experience, the practical hierarchy for redistricting in Georgia is:

State > county > voting precinct > census block

15. While there are in fact county subdivisions in Georgia, these are not commonly used in Georgia redistricting in my experience. Each feature of the hierarchy carries data along with it. The data can include a great deal of information. It could be economic – state funding for education purposes, business related – the number of Waffle House restaurants in a county or zip code, or perhaps agricultural – cultivated acres within a county. In the case of redistricting, the data attached to the layers is primarily population and demographic data from the Census Bureau and in many cases election and voter registration data as well.

16. In a GIS redistricting program, the geographic features within the hierarchy as well as other geographic features are displayed as layers on a map. The map layers are like stacked transparencies for use on an old-style overhead projector (such as might be used to show the various bodily systems – vascular, muscular, skeletal, etc.). The 159 counties in Georgia are a simple example of a map layer. Below the level of the county there are the voting precincts, which is a layer on the map. There are layers for interstate highways, for railroads, streets and roads, for

rivers and water areas, Native American tribal lands, school attendance areas and census blocks. In the current era, additional layers can be used such as topographic and hydrographic features as well as practical information such as Google maps and Google satellite maps. Residency data can be included as layers, such as incumbent addresses. Map drawers will display various pieces of information from those layers as they work to create redistricting maps.

17. In the redistricting process, map drawers consider many factors when drawing districts and must face trade-offs when seeking to balance conflicting considerations. In my experience, some of these factors are referred to as traditional redistricting principles, such as population equality, following civic boundaries, compactness and contiguity, incumbency and preserving existing districts. In his ruling in the *Alpha Phi Alpha* and *Grant* cases, Judge Jones recognized some of these traditional redistricting principles: “maintaining communities of interest and traditional boundaries, geographical compactness, contiguity, and protection of incumbents.” (Page 55)

18. Counties, incorporated towns and cities, as well as unincorporated municipalities and voting precincts are examples of traditional boundaries. In my experience, communities of interest can have many definitions. Communities of interest often include things based on socio-economic factors, transportation

corridors, watersheds, mountain and valley communities, urban, suburban and rural areas, and school attendance zones. Geographic features can also define some communities of interest, such as the Okefenokee swamp, coastal Georgia, and the Appalachian Mountains. Communities of interest can include military areas like Fort Benning in Columbus and university areas like the University of Georgia in Athens.

19. In my experience, protecting incumbents, including preserving cores of districts is a traditional redistricting principle. Continuity of district representation is a traditional redistricting factor. Voters and residents establish relationships with their elected representatives. In the House of Burgesses, in the colony of Virginia, Thomas Jefferson was the delegate from Albemarle County. Today, the member elected from that county could be said to hold Thomas Jefferson's seat in the Virginia House of Delegates. A significant root of representative democracy is the concept of a constituency— where a representative is elected from a geographic area to represent constituents. In my experience, some legislators and members of the public refer to geography when talking about districts, such as the Macon seat, Savannah senate seat, the Conyers seat, the Statesboro seat, etc. New England states such as Vermont and Massachusetts still name their legislative seats after their

constituencies – the Addison Senate District, the Washington Senate District, the Cape and Islands District, 3rd Essex District, etc.

20. It may be easy to look at a district shape and say that it looks compact. This occurs when district shapes approximate idealized geometric shapes like circles, squares, and ovals, while also having few or no branches or tendrils projecting out. Most compactness tests compare one shape to another. A redistricting program usually provides several compactness tests within the software. In this analysis, I used to the Reock and Polsby-Popper compactness tests, which are commonly used in my experience and are available in the Maptitude for Redistricting software. The Maptitude for Redistricting User’s Manual 2021 defines the compactness tests as follows:

Reock Test

The Reock test is an area-based measure that compares each district to a circle, which is considered to be the most compact shape possible. For each district, the Reock test computes the ratio of the area of the district to the area of the minimum enclosing circle for the district. The measure is always between 0 and 1, with 1 being the most compact. The Reock test computes one number for each district and the minimum, maximum, mean and standard

deviation for the plan. See [Reock 1961] and [Young 1988]. – Maptitude for Redistricting user's manual 2021

Polsby-Popper Test

The Polsby-Popper test computes the ratio of the district area to the area of a circle with the same perimeter: $4\pi\text{Area}/(\text{Perimeter}^2)$. The measure is always between 0 and 1, with 1 being the most compact. The Polsby-Popper test computes one number for each district and the minimum, maximum, mean and standard deviation for the plan. See [Cox 1929], [Polsby and Popper 1991], and [Niemi, Grofman, Carlucci, and Hofeller 1990].

HOUSE ILLUSTRATIVE PLAN

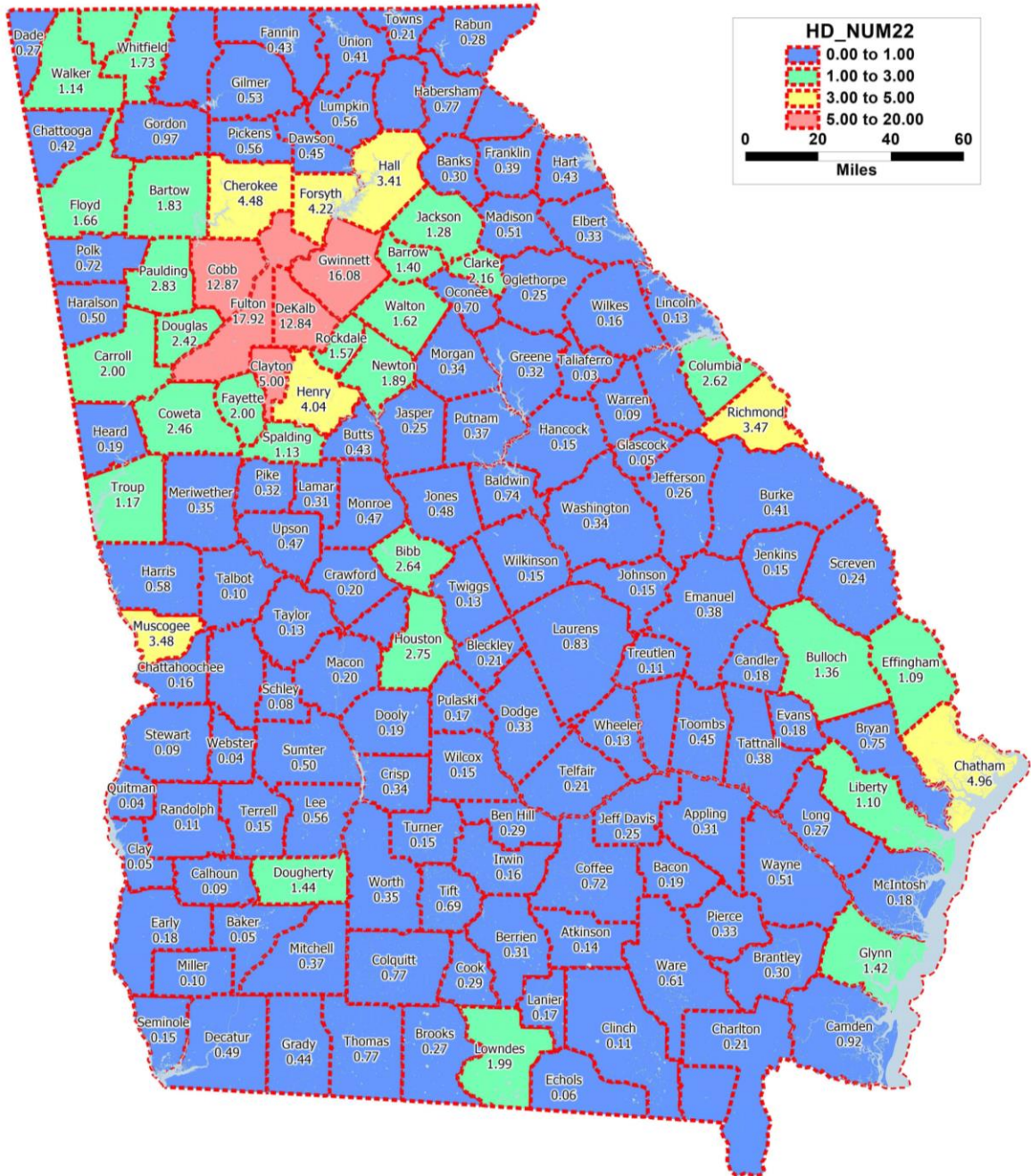
21. To start the districting process, I looked at population distribution across Georgia. The 2020 census shows that total population for Georgia is 10,711,908. Looking at the situation for the House first, the number of single-member house districts in Georgia is 180. Dividing the total census population (10,711,908) by the number of house districts (180) yields 59,510.6. Rounding up, the ideal population for a Georgia House district is 59,511.

22. To better understand the distribution of the population within Georgia, the population for each county was displayed on a county map in the Maptitude redistricting program as well as displayed on a spreadsheet. The Georgia county

with the highest 2020 census population is Fulton County at 1,066,710 people and the county with the lowest population is Taliaferro County with 1,559 people. Dividing the county populations by the ideal district size (59,511) yields the ratio of state house seats per county. Using this method, the ratio of house seats in the largest county, Fulton County is 17.92 and the ratio of house seats in the smallest county, Taliaferro County is 0.03. Fulton County has population enough for almost 18 state house seats and Taliaferro County is three one-hundredths of a single state house seat.

Map 1 - House district ratios

House district ratios by county 2021



23. The enacted state house plan has a relative deviation of -1.40% to +1.34% of the ideal population. For purposes of drafting the House Illustrative Plan, I used an overall deviation range of -1.50% to +1.50%.

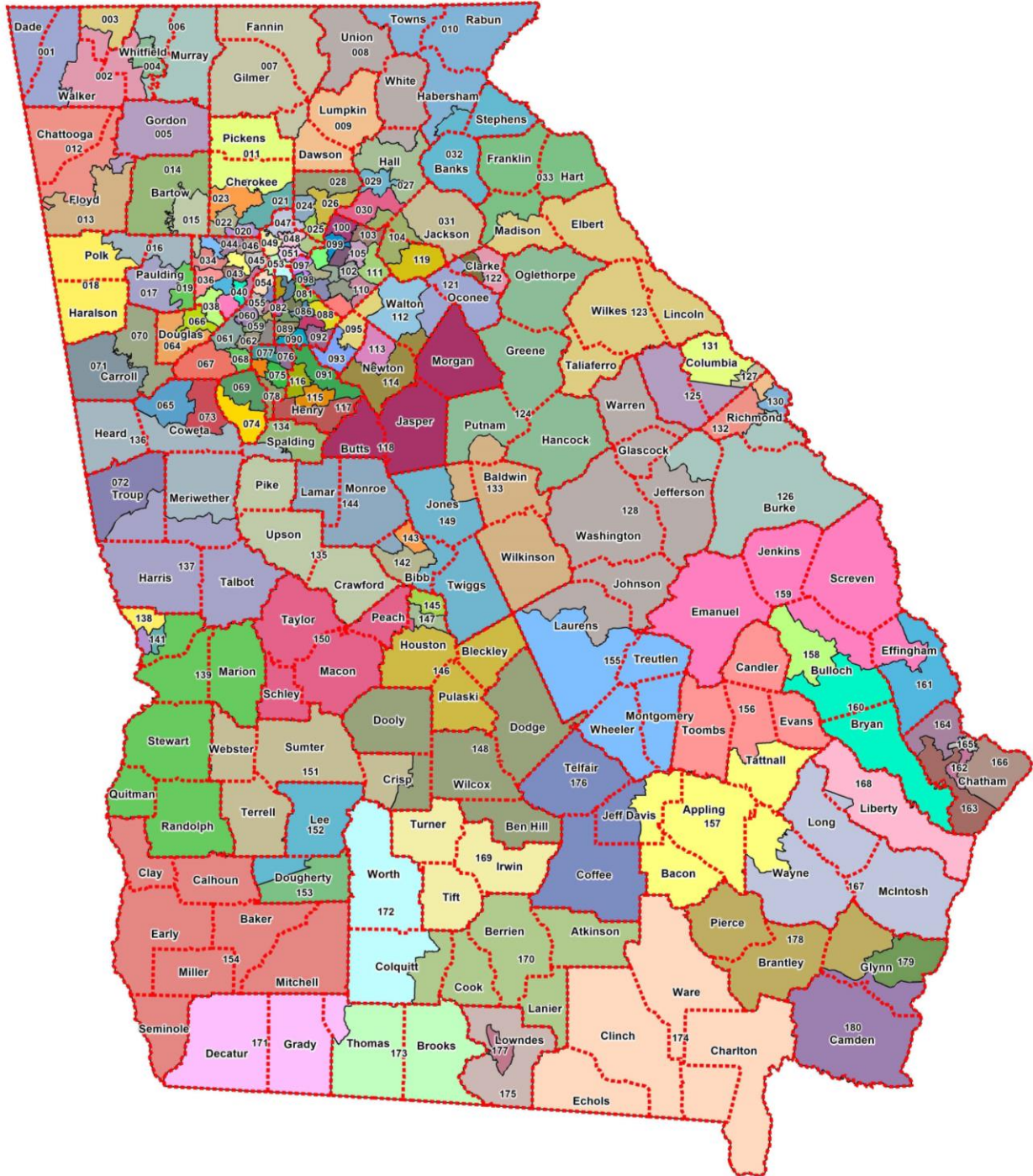
24. To provide additional context for communities of interest, I looked at the map layer for cities as well as incorporated and unincorporated places. I attempted to balance keeping counties and voting districts whole and drawing compact districts with the necessity of staying within the population deviation. During the drawing process, I did not use any racial data, incumbency information or the boundaries of the previous districts.

25. I started drawing some districts in the northwestern Georgia then proceeded into the metro Atlanta area. Having looked at the ratios of the HDs per county, I was aware that some counties could be subdivided evenly into districts within the population deviation (such as Henry and Fayette). Other counties, (such as Walker or Spalding) had a little more population than a House district, so those counties could be kept relatively intact while assigning the surplus population to a nearby seat. I drew some districts in coastal Georgia, southwest Georgia, then central Georgia and completed the districts in metro Atlanta and the rest of the state.

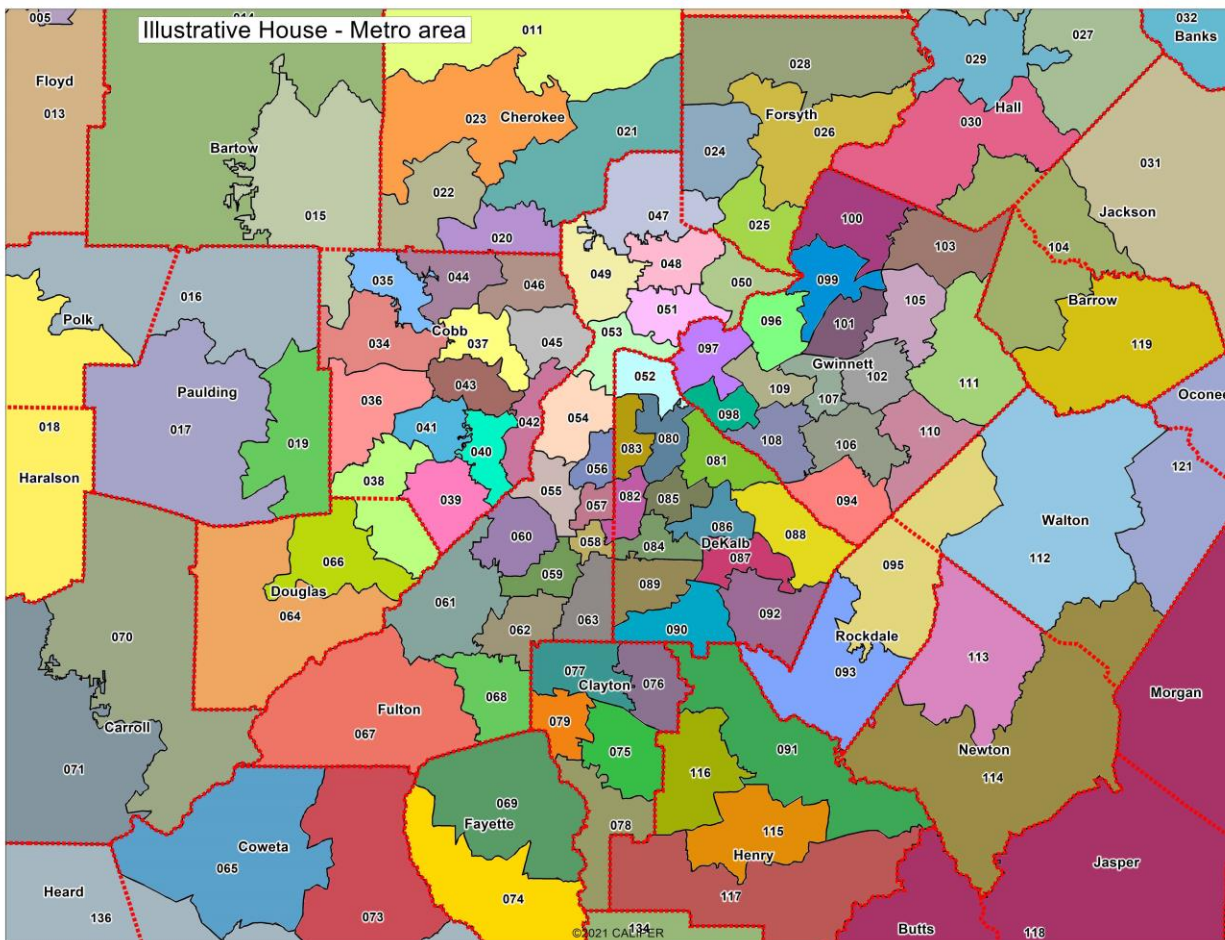
26. After completing the House Illustrative Plan, I looked at the House Enacted Plan and re-numbered the districts in the House Illustrative Plan, such that the district numbers would be similar to the House Enacted Plan.

Map 2 - House Illustrative Plan

House Illustrative - Statewide



Map 3 Metro Atlanta inset of House Illustrative Plan



HOUSE PLAN ANALYSIS

27. After completing the House Illustrative Plan, I copied the plan and added in the census racial data. I ran a series of reports to compare the House Illustrative Plan and the House Enacted Plan on several metrics. Those metrics included - county splits, voting precinct splits, compactness scores, paired

incumbents and the number of majority 18+AP Black districts. Copies of these reports for House plans are attached as exhibits to this report.

Chart 1- House Illustrative Plan and House Enacted Plan comparisons

Plan metrics	House Ilustr.	House Enacted
County splits	54	69
Voting precinct splits	106	184
Mean compactness - Reock	0.45	0.39
Mean compactness - Polsby Popper	0.33	0.28
# Paired incumbents	74	20
# Seats majority 18+_AP_Blk%	35	49
# Seats 18+_AP_Blk% is: over 90%	6	0
# Seats 18+_AP_Blk% is: 80% to 90%	4	0
# Seats 18+_AP_Blk% is: 70% to 80%	5	11
# Seats 18+_AP_Blk% is: 60% to 70%	9	15
# Seats 18+_AP_Blk% is: 50% to 60%	11	23

House Region 1 Analysis

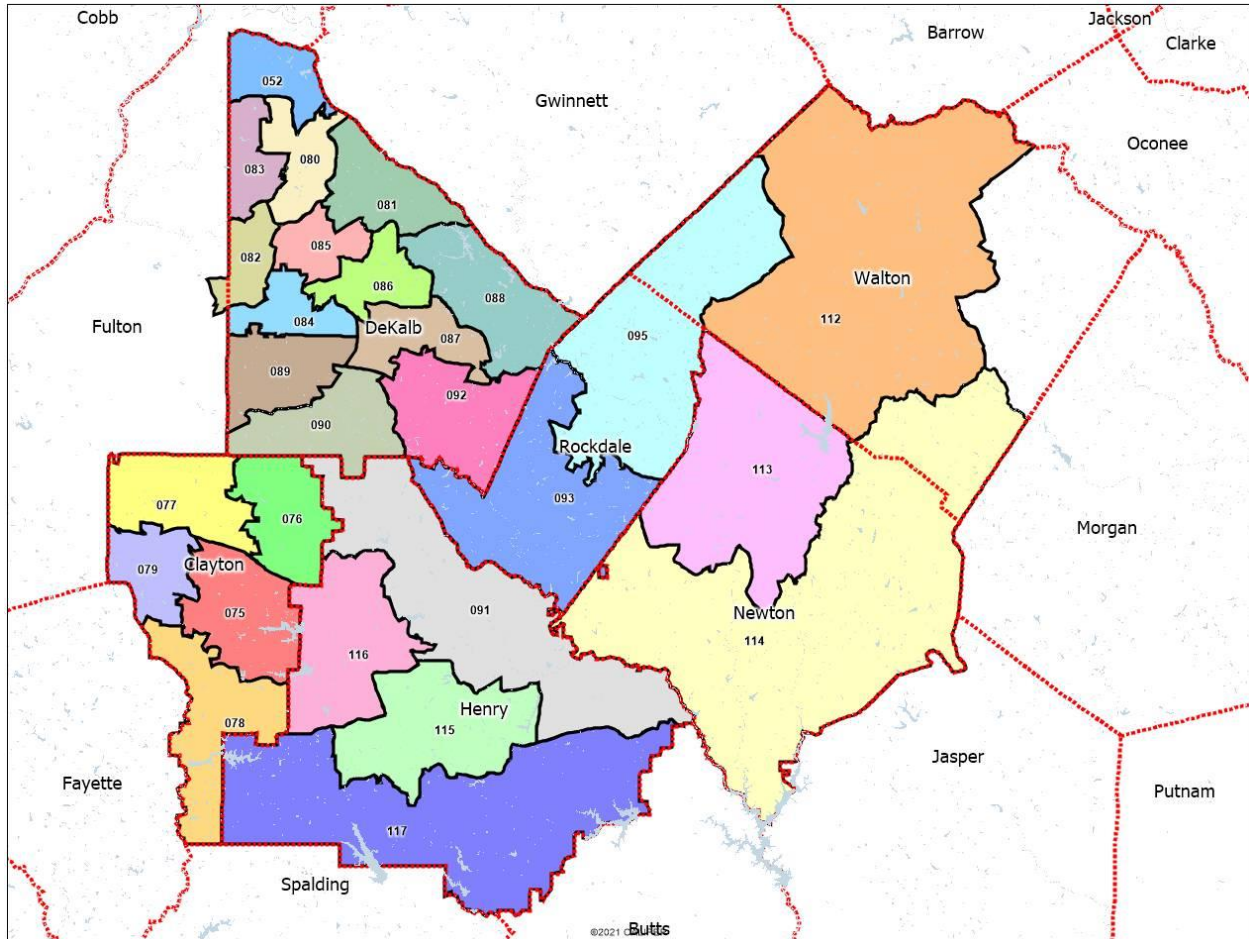
28. For further analysis, I looked at two regions of roughly similar geography to compare the House Illustrative Plan to the House Enacted Plan. Region 1 consists primarily of DeKalb, Clayton, Henry, Rockdale, Newton, and Walton counties. Below are maps of the House districts in region 1 for both the

House Illustrative Plan and the House Enacted Plan. Looking at the districts in the House Illustrative Plan, the districts look compact and only cross county lines in a limited way. By contrast, looking at the districts in the House Enacted Plan, the districts look elongated, and they cross county lines in a number of places. For example, in the House Illustrative Plan only one district crosses out of DeKalb County, whereas in the House Enacted Plan, seven districts cross out of DeKalb County. A review of the mean compactness scores for this region confirms what is visible to the eye. The mean compactness scores for districts in region 1 show that the House Illustrative Plan is more compact as a whole than the House Enacted Plan in this region.

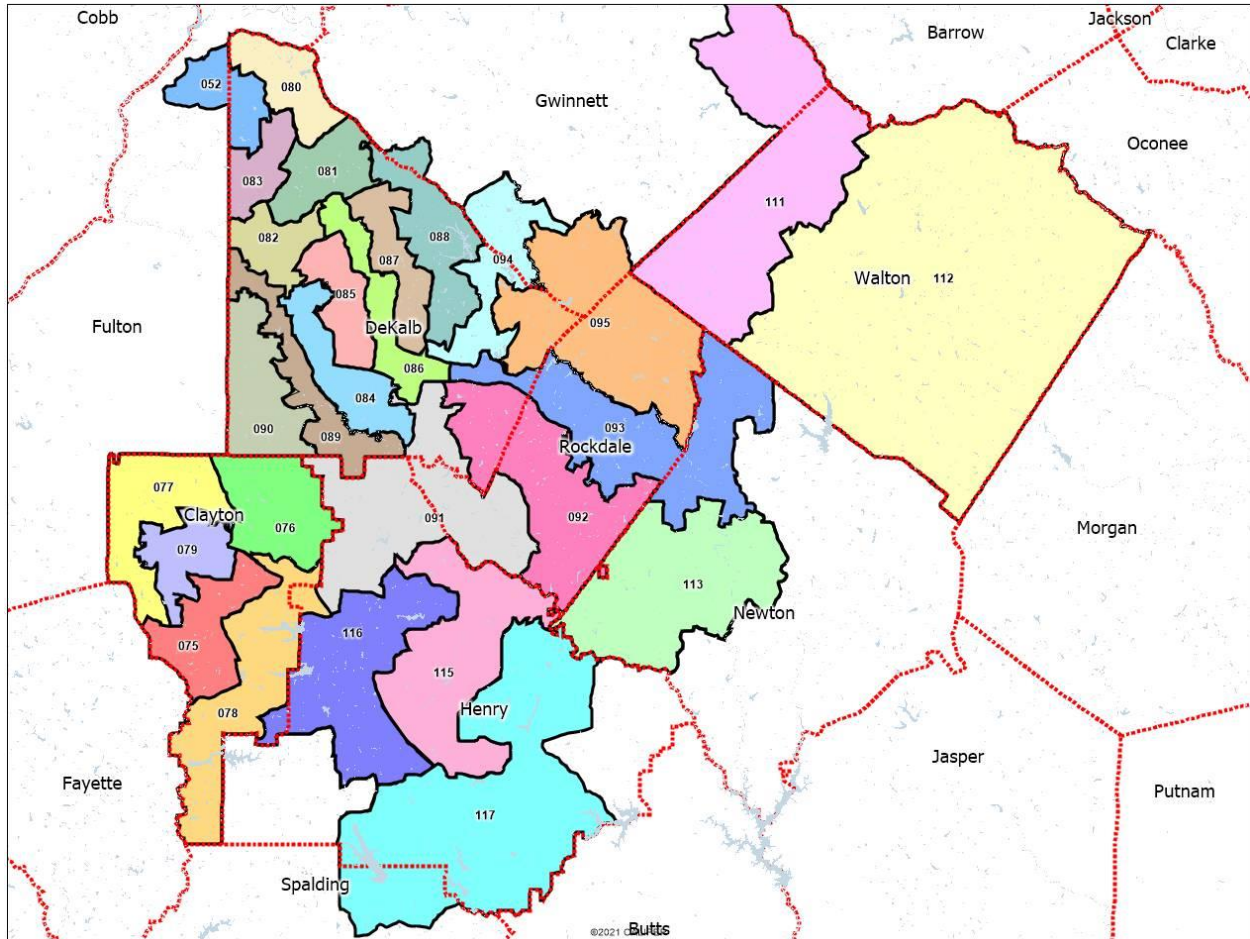
Chart 2 – Mean compactness scores in House region 1

Region 1 compactness scores	House Illustr.	House Enacted
Mean compactness - Reock	0.42	0.38
Mean compactness - Polsby Popper	0.33	0.27

Map 3– House Illustrative Plan region 1



Map 4– House Enacted Plan region 1



29. The contrast in compactness leads one to ask why these maps of the region are so different. While there may be many causes, reviewing the compactness of the districts along with the 18+AP Black percentages allows for an analysis of the impact of racial considerations. Below is the data for the House Illustrative Districts and the House Enacted Districts in region 1.

Chart 3 – Districts in House Illustrative Plan region 1

District	[% Black]	[% 18+ AP_Bl]	Reock	Polsby-Popper
052	11.8%	13.9%	0.43	0.38
075	64.7%	66.2%	0.52	0.36
076	69.0%	71.3%	0.52	0.41
077	60.5%	62.6%	0.42	0.35
078	77.1%	78.9%	0.3	0.21
079	77.9%	80.7%	0.56	0.36
080	13.6%	16.1%	0.43	0.25
081	34.9%	36.6%	0.39	0.41
082	12.6%	14.7%	0.36	0.37
083	12.1%	14.6%	0.38	0.36
084	34.9%	37.6%	0.37	0.23
085	36.5%	36.3%	0.54	0.36
086	66.2%	67.9%	0.44	0.31
087	88.3%	91.3%	0.38	0.28
088	83.4%	86.0%	0.41	0.39
089	75.7%	76.6%	0.42	0.39
090	92.2%	94.9%	0.4	0.4
091	42.2%	43.1%	0.21	0.18
092	91.7%	94.3%	0.51	0.37
093	57.4%	58.2%	0.47	0.2
095	43.5%	43.5%	0.32	0.3
112	17.2%	17.4%	0.59	0.42
113	55.4%	55.9%	0.47	0.41
114	35.9%	36.9%	0.37	0.22
115	57.0%	57.4%	0.45	0.38
116	58.9%	59.8%	0.49	0.37
117	38.2%	38.8%	0.26	0.24

Chart 4 – Districts in House Enacted Plan region 1

District	[% Black]	[% 18+ AP_Bl]	Reock	Polsby-Popper
052	13.9%	16.0%	0.48	0.35
075	72.3%	74.4%	0.42	0.28
076	65.0%	67.2%	0.53	0.51
077	73.4%	76.1%	0.4	0.21
078	70.3%	71.6%	0.21	0.19
079	69.1%	71.6%	0.5	0.21
080	12.0%	14.2%	0.38	0.42
081	19.1%	21.8%	0.47	0.4
082	14.7%	16.8%	0.49	0.3
083	12.5%	15.1%	0.34	0.36
084	70.5%	73.7%	0.25	0.2
085	60.9%	62.7%	0.36	0.32
086	72.4%	75.1%	0.17	0.17
087	70.9%	73.1%	0.26	0.24
088	61.4%	63.4%	0.26	0.2
089	60.3%	62.5%	0.14	0.1
090	57.7%	58.5%	0.36	0.29
091	68.6%	70.0%	0.45	0.2
092	68.3%	68.8%	0.36	0.2
093	64.0%	65.4%	0.26	0.11
094	66.8%	69.0%	0.31	0.15
095	65.9%	67.2%	0.44	0.25
111	22.1%	22.3%	0.33	0.29
112	19.1%	19.2%	0.62	0.52
113	58.3%	59.5%	0.5	0.32
115	52.1%	52.1%	0.44	0.23
116	57.6%	58.1%	0.41	0.28
117	36.4%	36.6%	0.41	0.28

30. Looking at some specific districts shows that the compactness of the those districts is lowered by apparent efforts to create more majority black districts.

In the House Illustrative Plan, District 090 is in southern DeKalb County. This district has a Reock compactness score of .4 and a Polsby-Popper compactness score of .4 and the district is 94.9% 18+AP Black. In the House Enacted Plan, a comparable district in the region is District 089, in southern DeKalb County. This district has a Reock compactness score of .14 and a Polsby-Popper compactness score of .1 and the district is 62.5% 18+AP Black. This demonstrates that drawing a more compact district in southern DeKalb County yields a very high black percentage. The black percentage is lowered only by elongating the district to include lower concentrations of black population. This allows the black population to be redistributed and to create other majority black districts. Looking at the individual district data in region 1, the House Enacted Plan has more majority black districts and they are less compact than the districts in the House Illustrative Plan. In my opinion, the creation of additional black majority districts in region 1 lead to lower compactness scores in this region.

House Region 2 Analysis

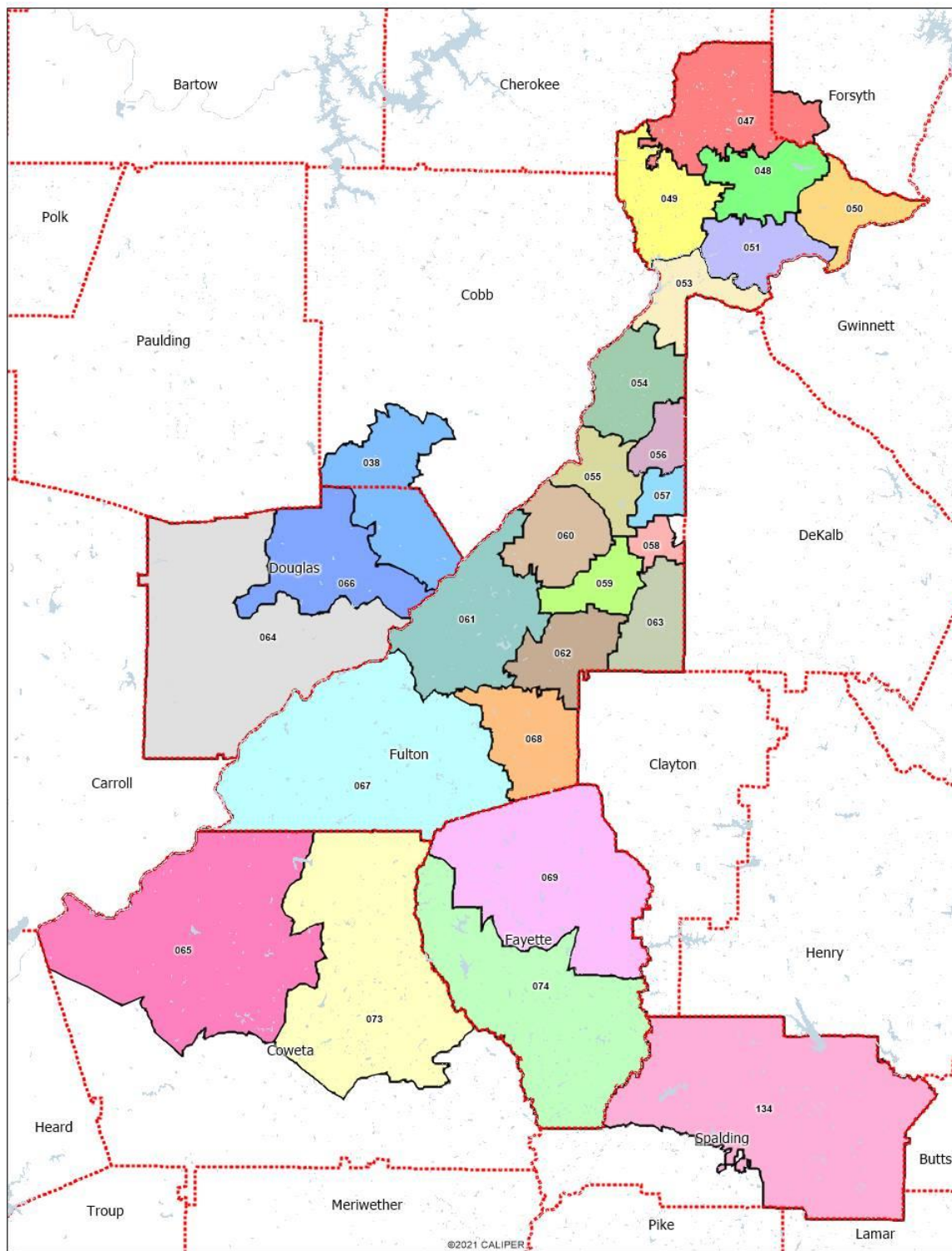
31. I analyzed another region of roughly similar geography to compare the House illustrative plan to the House enacted plan. Region 2 consists primarily of Fulton, Douglas, Coweta, Fayette, and Spalding counties. Region 2 maps of the House districts for both the House Illustrative Plan and the House Enacted Plan are

below. Similar to region 1, the districts in region 2 of the House Illustrative Plan look compact and only cross county lines in a limited way. However, the districts in the House Enacted Plan look elongated and they cross county lines in many places. For example, in the House Illustrative Plan, two districts cross out of Fulton County, whereas in the House Enacted Plan, nine districts cross out of Fulton County. The mean compactness scores for districts in region 2 confirm that the House Illustrative Plan is more compact as a whole than the House Enacted Plan in region 2.

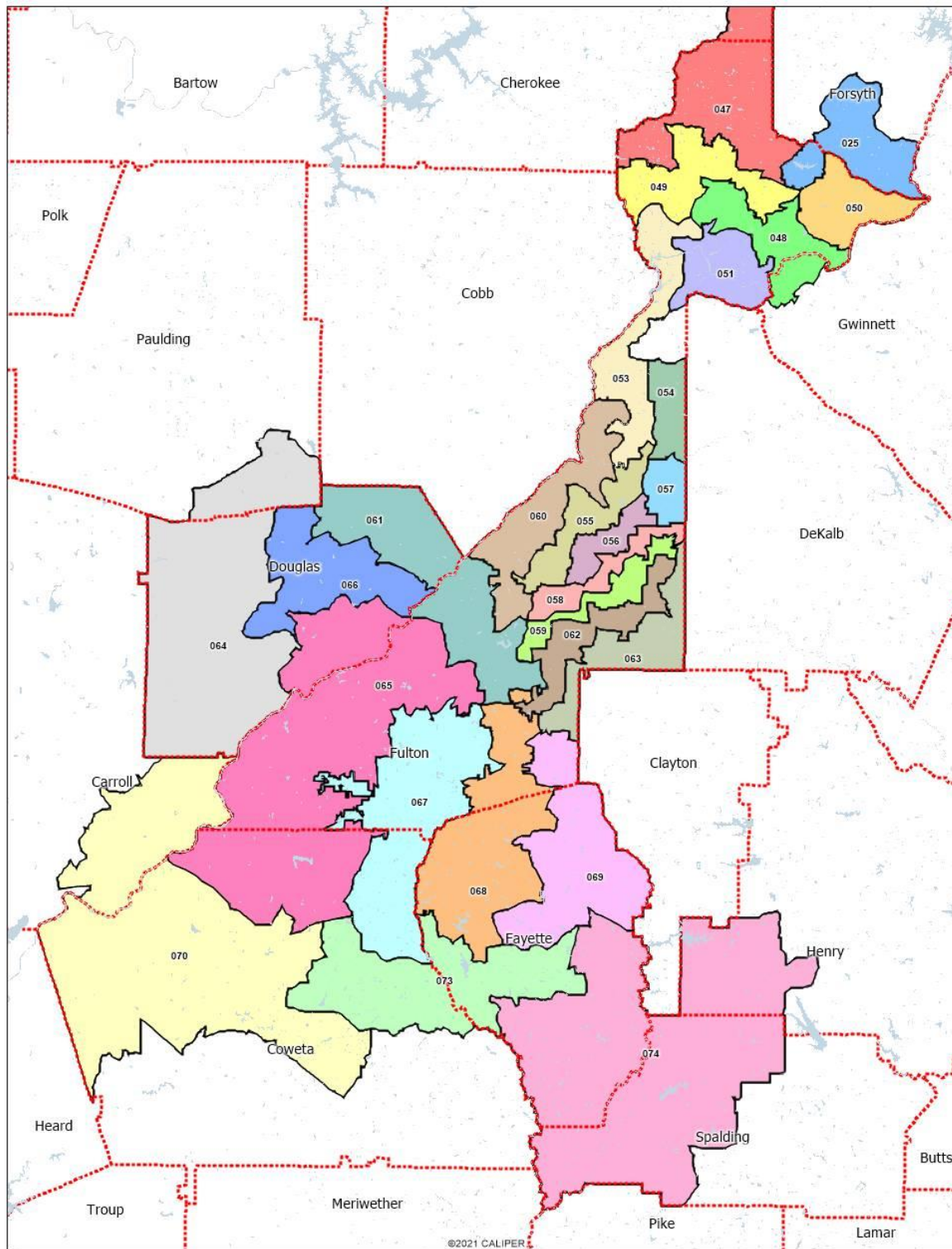
Chart 5 – Mean compactness scores in House region 2

Region 2 compactness scores	House Illustr.	House Enacted
Mean compactness - Reock	0.47	0.32
Mean compactness - Polsby Popper	0.35	0.23

Map 5– House Illustrative Plan region 2



Map 6– House Enacted Plan region 2



32. Similar to House region 1, the maps in region 2 show a contrast between the House Illustrative Plan and the House Enacted Plan. Likewise, while there may be many causes, the compactness of the districts along with the 18+AP Black percentages allows for an analysis of the impact of racial considerations. Below is the data for the House Illustrative Plan districts and the House Enacted Plan districts in region 2.

Chart 6 – Districts in House Illustrative Plan region 2

District	[% Black]	[% 18+_AP_Bl]	Reock	Polsby-Popper
038	56.1%	57.3%	0.46	0.29
047	9.7%	11.1%	0.5	0.21
048	10.1%	11.4%	0.49	0.18
049	9.6%	10.9%	0.51	0.23
050	11.2%	12.3%	0.41	0.37
051	13.2%	14.5%	0.42	0.31
053	25.0%	26.5%	0.33	0.25
054	10.5%	12.7%	0.62	0.5
055	26.0%	29.0%	0.43	0.36
056	16.2%	18.5%	0.44	0.51
057	13.3%	15.2%	0.43	0.49
058	39.3%	40.1%	0.57	0.32
059	86.9%	88.6%	0.41	0.36
060	89.8%	92.1%	0.7	0.43
061	93.3%	95.6%	0.42	0.27
062	79.5%	81.6%	0.46	0.26
063	63.7%	63.8%	0.46	0.49
064	40.5%	41.0%	0.46	0.36
065	28.8%	28.5%	0.54	0.44
066	53.4%	53.9%	0.4	0.31
067	77.4%	78.6%	0.46	0.47

068	90.6%	92.9%	0.48	0.36
069	41.2%	42.1%	0.53	0.44
073	10.0%	10.9%	0.54	0.38
074	8.6%	9.3%	0.35	0.27
134	36.5%	35.4%	0.48	0.33

Chart 7 – Districts in House Enacted Plan region 2

District	[% Black]	[% 18+ AP_Bl]	Reock	Polsby-Popper
025	5.1%	5.9%	0.39	0.31
047	9.6%	10.7%	0.29	0.21
048	10.4%	11.8%	0.34	0.19
049	7.3%	8.4%	0.3	0.15
050	11.3%	12.4%	0.42	0.46
051	22.4%	23.7%	0.54	0.36
053	12.6%	14.5%	0.16	0.14
054	13.3%	15.5%	0.37	0.45
055	55.0%	55.4%	0.18	0.16
056	46.9%	45.5%	0.26	0.23
057	15.9%	18.1%	0.57	0.59
058	63.7%	63.0%	0.13	0.13
059	70.3%	70.1%	0.12	0.11
060	62.3%	63.9%	0.19	0.15
061	72.3%	74.3%	0.25	0.2
062	70.9%	72.3%	0.16	0.1
063	68.6%	69.3%	0.16	0.14
064	29.9%	30.7%	0.37	0.36
065	60.7%	62.0%	0.46	0.17
066	52.9%	53.4%	0.36	0.25
067	57.7%	58.9%	0.36	0.12
068	55.2%	55.8%	0.32	0.17
069	62.6%	63.6%	0.4	0.25
070	28.0%	27.8%	0.45	0.23
073	11.5%	12.1%	0.28	0.2
074	25.5%	25.5%	0.5	0.25

33. Looking at some specific districts shows that the compactness of the districts is impacted by the efforts to create more majority black districts. In the House Illustrative Plan, District 059 is in Fulton County, just north of East Point. This district has a Reock compactness score of .41 and a Polsby-Popper compactness score of .36 and the district is 88.6% 18+AP Black. In the House Enacted Plan, a comparable district in the region is District 059, in Fulton County, stretching from north of East Point to just south of Midtown. This district has a Reock compactness score of .12 and a Polsby-Popper compactness score of .11 and the district is 70.1% 18+AP Black. This demonstrates that drawing a more compact district in Fulton County can yield a district with very high black percentages. The black percentage is lowered only by elongating the district to include lower concentrations of black population. This allows the black population to be redistributed and to create other majority black districts.

34. Looking at the individual district data in region 2, the House Enacted plan has more majority black districts and they are less compact than the districts in the House Illustrative Plan. In my opinion, the creation of additional black majority districts in region 2 lead to lower compactness scores in this region.

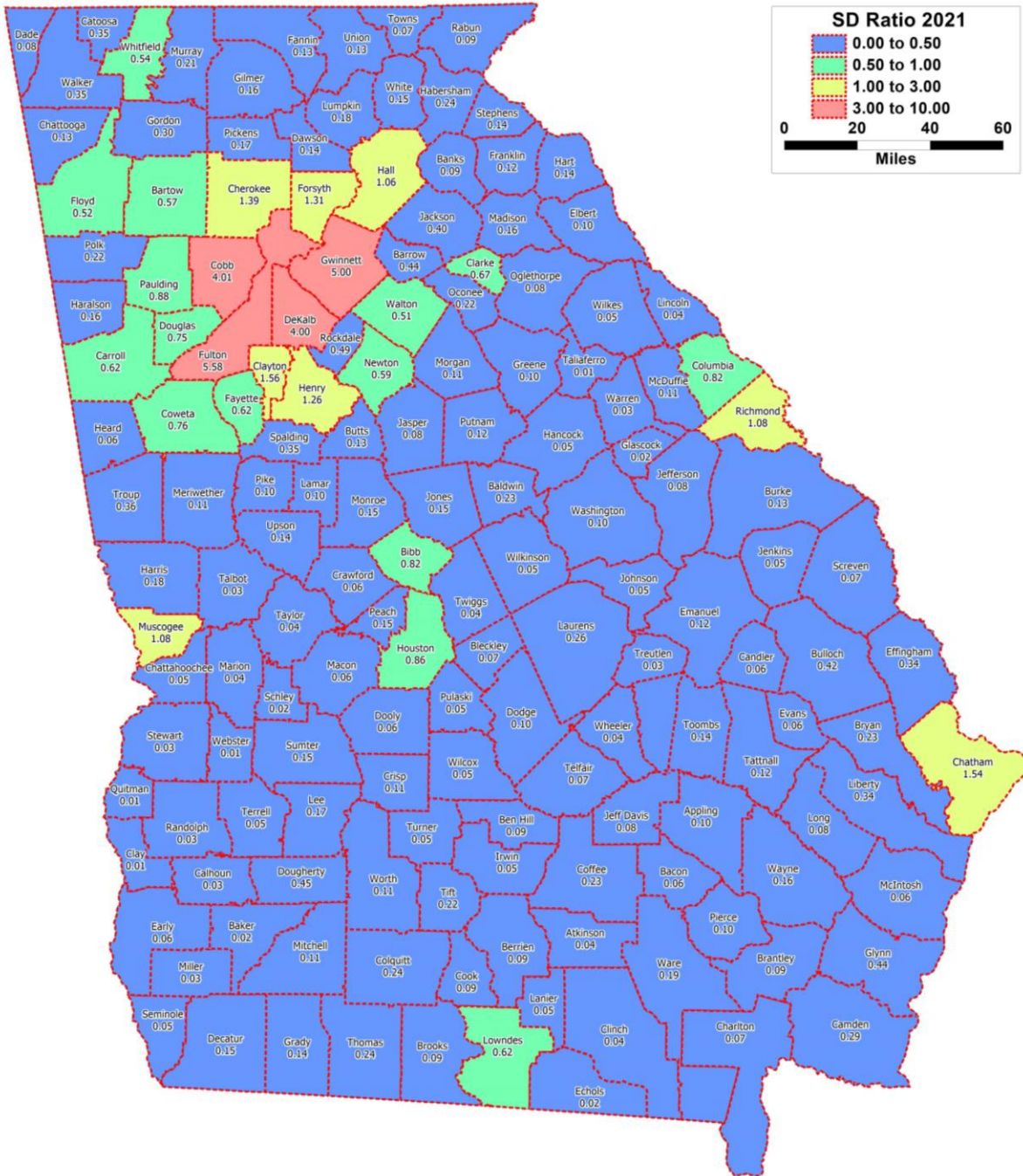
SENATE ILLUSTRATIVE PLAN

35. The 2020 census shows that total population for Georgia is 10,711,908. Looking at the situation for the Senate the number of single-member senate districts in Georgia is 56. Dividing the total census population (10,711,908) by the number of senate districts (56) yields 191,284.1. Rounding down, the ideal population for a Georgia Senate district is 191,284.

36. I used the same general process for drawing the Senate Illustrative Plan as I did to draw the House Illustrative Plan. Dividing the county populations by the ideal district size (191,284) yields the ratio of state senate seats per county. Using this method, the ratio of senate seats in the largest county, Fulton County is 5.58 and the ratio of senate seats in the smallest county, Taliaferro County is 0.01. Fulton County has population enough for just over 5 and a half state senate seats and Taliaferro County is one one-hundredths of a single state senate seat.

Map 7 - Senate district ratios

Senate district ratios by county 2021



37. The Senate Enacted Plan has a relative deviation of -1.03% to + 0.98% of the ideal population. For purposes of drafting the Senate Illustrative Plan, I used an overall deviation range of -1.0% to +1.0%.

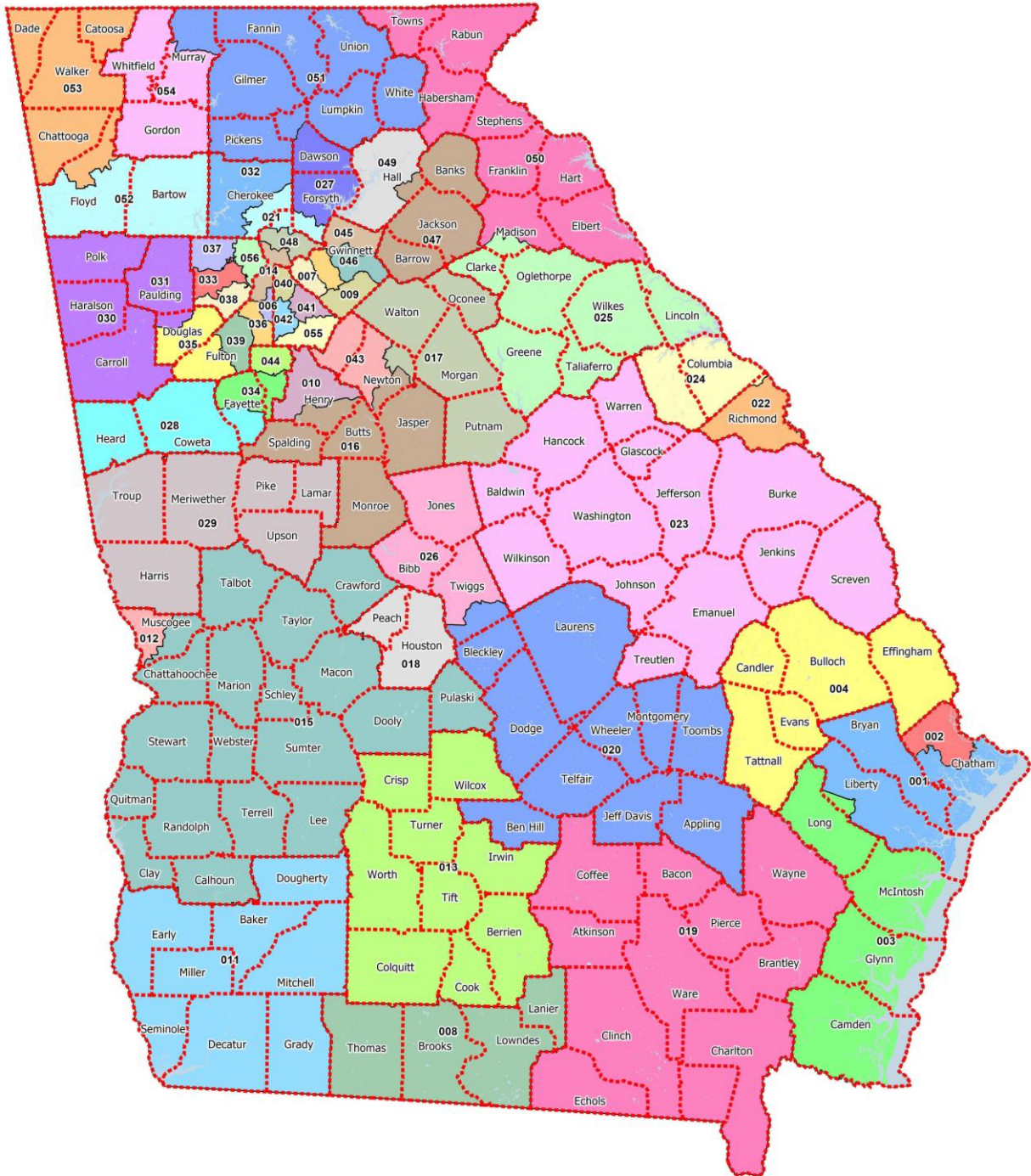
38. Like the process used for drawing the House Illustrative Plan, I looked at the map layer for cities as well as incorporated and unincorporated places and I attempted to balance keeping counties and voting districts whole and drawing compact districts with the necessity of staying within the population deviation. During the drawing process, I did not use any racial data, incumbency information or the boundaries of the previous districts.

39. I started drawing some districts in southern and southwestern Georgia then proceeded to coastal and central Georgia. Having looked at the ratios of the SDs per county, I was aware that some counties could be subdivided evenly into districts within the population deviation (such as DeKalb and Cobb). Other counties (such as Richmond and Muscogee) had a little more population than a Senate district, so those counties could be kept relatively intact while assigning the surplus population to a nearby seat. I drew districts in metro Atlanta, northwest Georgia, then completed the districts around metro Atlanta and the remainder of the state.

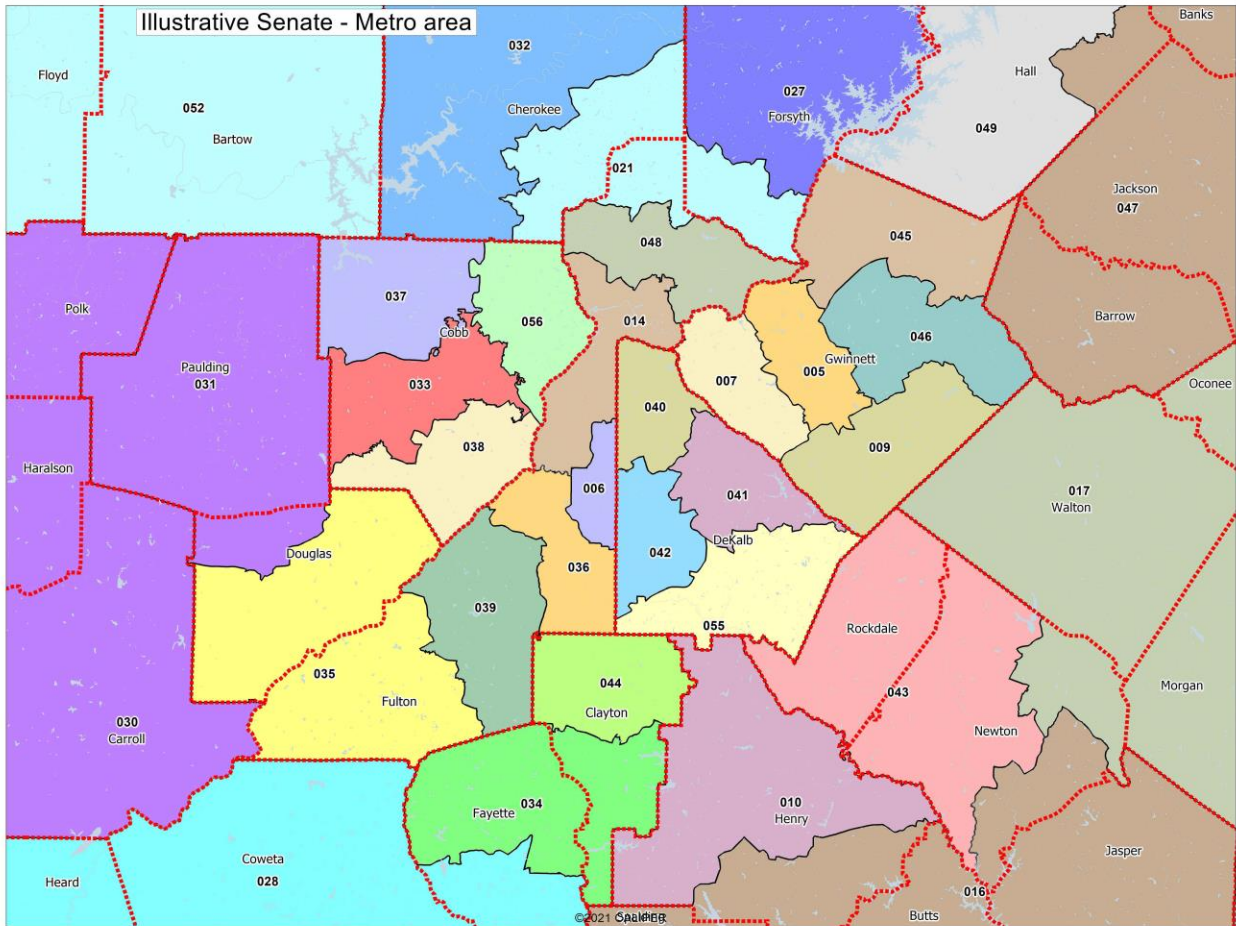
40. After completing the Senate Illustrative Plan, I looked at the Senate Enacted Plan and re-numbered the districts in the Senate Illustrative Plan, such that the district numbers would be similar to the Senate Enacted Plan.

Map 8 - Senate Illustrative Plan

Senate Illustrative - Statewide



Map 9 - Metro Atlanta inset of Senate Illustrative Plan



SENATE PLAN ANALYSIS

41. After completing the Senate Illustrative Plan, I copied the plan and added in the Census racial data. I ran a series of reports to compare the Senate Illustrative Plan and the Senate Enacted Plan on several metrics. Those metrics included - county splits, voting precinct splits, compactness scores, paired

incumbents, and the number of majority 18+AP Black districts. Copies of these reports for Senate plans are attached as exhibits to this report.

Chart 8- Senate Illustrative Plan and Senate Enacted Plan comparisons

Plan metrics	Senate Ilustr.	Senate Enacted
County splits	21	29
Voting precinct splits	15	47
Mean compactness - Reock	0.46	0.42
Mean compactness - Polsby Popper	0.36	0.29
# Paired incumbents	17	4
# Seats majority 18+_AP_Blk%	11	14
# Seats 18+_AP_Blk% is over 90%	2	0
# Seats 18+_AP_Blk% is: 80% to 90%	0	0
# Seats 18+_AP_Blk% is: 70% to 80%	1	3
# Seats 18+_AP_Blk% is: 60% to 70%	3	6
# Seats 18+_AP_Blk% is: 50% to 60%	5	5

Senate Metro Region Analysis

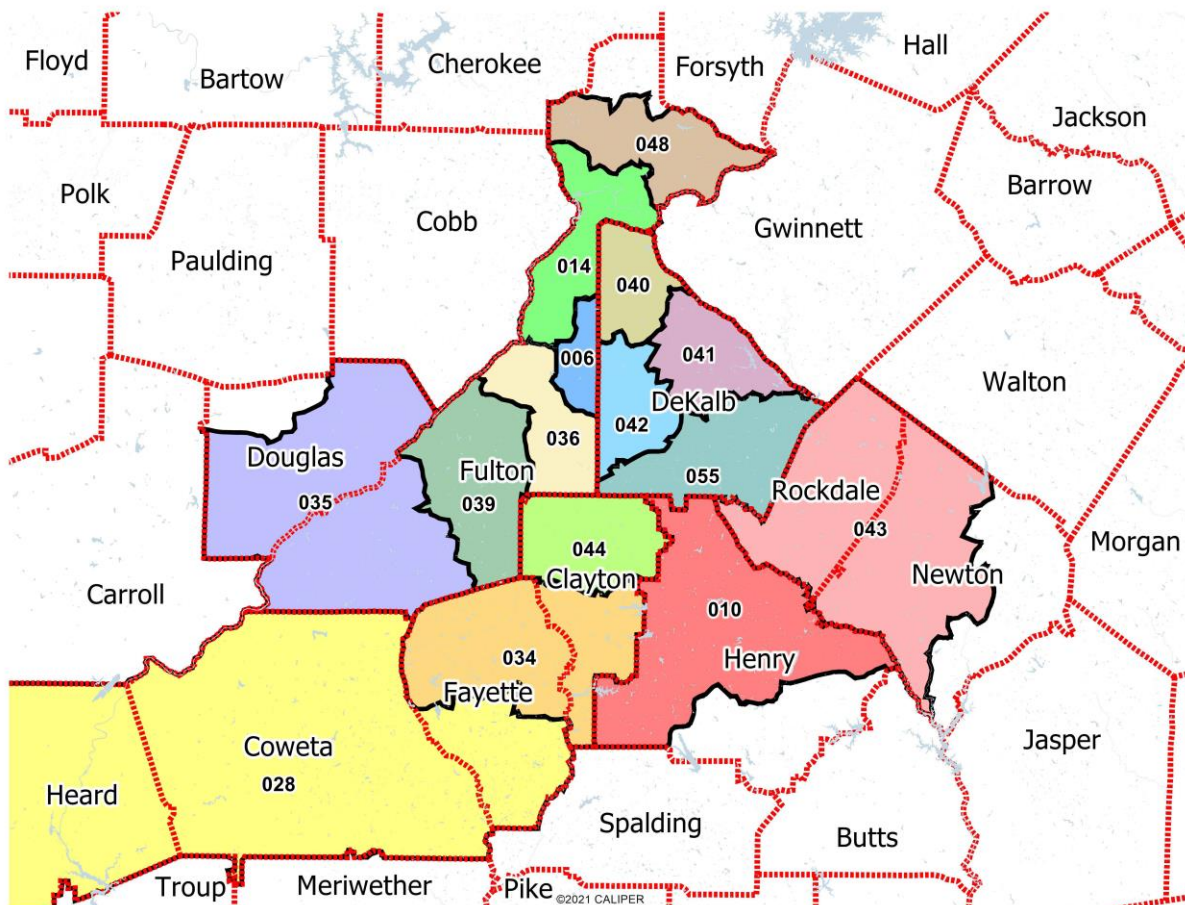
42. Similar to the analysis for the House plans, I looked a region of roughly similar geography to compare the Senate Illustrative Plan to the Senate Enacted Plan. The senate metro region consists primarily of Douglas, Fulton, Coweta, DeKalb, Clayton, Fayette, Henry, Rockdale, and Newton counties. Below are maps of the

Senate districts in the senate metro region for both the Senate Illustrative Plan and the Senate Enacted Plan. Looking at the districts in the Senate Illustrative Plan, the districts look compact and only cross county lines in a limited way. By contrast, looking at the districts in the Senate Enacted Plan, the districts look elongated, and they cross county lines in a number of places. For example, in the Senate Illustrative Plan, the DeKalb senate districts are entirely contained within DeKalb County, whereas in the Senate Enacted Plan, six districts cross out of DeKalb County. A review of the mean compactness scores for this senate metro region confirms what is visible to the eye. The mean compactness scores for districts in senate metro region show that Senate Illustrative Plan is more compact as a whole the Senate Enacted Plan in this region.

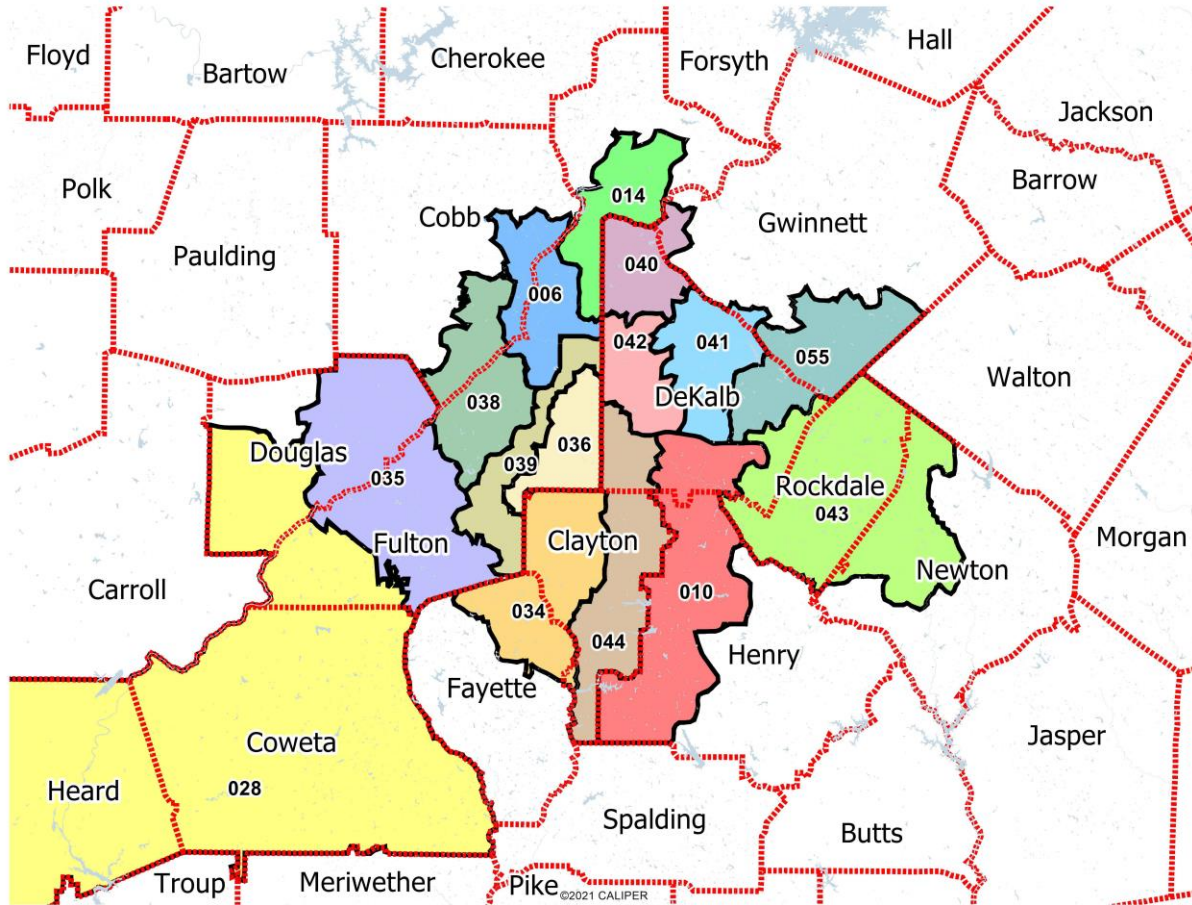
Chart 9 – Mean compactness scores in the senate metro region

Sen Metro Region compactness scores	Senate Ilustr.	Senate Enacted
Mean compactness - Reock	0.42	0.39
Mean compactness - Polsby Popper	0.37	0.26

Map – Senate illustrative Metro Region



Map – Senate enacted Metro Region



43. Like the analysis for the House regions, the maps for the senate metro region show a contrast between the Senate Illustrative Plan and the Senate Enacted Plan. While there may be many causes, reviewing the compactness of the districts along with the 18+AP Black percentages allows for an analysis of the impact of racial considerations. Below is the data for the Senate Illustrative Districts and the Senate Enacted Districts in the senate metro region.

Chart 10 – Districts in the Senate Illustrative Plan senate metro region

District	[% Black]	[% 18+_AP_Bl]	Reock	Polsby-Popper
006	19.9%	21.6%	0.33	0.45
010	51.6%	52.2%	0.38	0.27
014	15.6%	17.5%	0.32	0.23
028	15.2%	15.8%	0.37	0.34
034	55.0%	56.0%	0.49	0.36
035	59.3%	60.2%	0.58	0.41
036	68.4%	69.8%	0.42	0.37
039	89.7%	92.0%	0.47	0.45
040	13.9%	16.4%	0.54	0.46
041	59.3%	60.9%	0.39	0.35
042	39.1%	40.8%	0.45	0.42
043	55.0%	55.8%	0.47	0.33
044	68.1%	70.5%	0.59	0.52
048	10.2%	11.5%	0.31	0.28
055	90.9%	93.7%	0.32	0.34

Chart 11 – Districts in the Senate Enacted Plan senate metro region

District	[% Black]	[% 18+_AP_Bl]	Reock	Polsby-Popper
006	21.9%	23.9%	0.41	0.24
010	69.7%	71.5%	0.28	0.23
014	17.2%	19.0%	0.27	0.24
028	19.1%	19.5%	0.45	0.25
034	67.5%	69.5%	0.45	0.34
035	70.6%	71.9%	0.47	0.26
036	51.9%	51.3%	0.32	0.3
038	63.4%	65.3%	0.36	0.21
039	61.0%	60.7%	0.17	0.13
040	16.8%	19.2%	0.51	0.34
041	61.0%	62.6%	0.51	0.3
042	28.5%	30.8%	0.48	0.32

043	63.4%	64.3%	0.64	0.35
044	69.9%	71.3%	0.18	0.19
055	63.9%	66.0%	0.34	0.27

44. Looking at some specific districts shows that the compactness of the districts is impacted by the efforts to create more majority black districts. In the Senate Illustrative Plan, District 055 is in southern DeKalb County. This district has a Reock compactness score of .32 and a Polsby-Popper compactness score of .34 and the district is 93.7% 18+AP Black. In the enacted plan, a comparable district in the region is District 010, in southern DeKalb County and Henry County. This district has a Reock compactness score of .28 and a Polsby-Popper compactness score of .23 and the district is 71.5% 18+AP Black. This demonstrates that drawing a more compact district in southern DeKalb County yields a very high black percentage. The black percentage is lowered only by elongating the district to include lower concentrations of black population. This allows the black population to be redistributed and to create other majority black districts.

45. Looking at another district in the region, In the Senate Illustrative Plan, District 039 is in Fulton County. This district has a Reock compactness score of .47 and a Polsby-Popper compactness score of .45 and the district is 92.0% 18+AP Black. In the enacted plan, a comparable district in the region is District 039, in

Fulton County. This district has a Reock compactness score of .17 and a Polsby-Popper compactness score of .13 and the district is 60.7% 18+AP Black. This demonstrates that drawing a more compact district in Fulton County can yield a very high black percentage. The black percentage is lowered only by elongating the district to include lower concentrations of black population. This allows the black population to be redistributed and to create other majority black districts.

46. Looking at the individual district data in the senate metro region, the Senate Enacted Plan has more majority black districts and they are less compact than the districts in the Senate Illustrative Plan. In my opinion, the creation of an additional black majority district in the region lead to lower compactness scores in this region.

CONCLUSION

47. As described above, I reviewed the enacted House and Senate plans and I drew a “blind” plan that did not consider race or incumbency or past redistricting plans for Georgia, while still considering traditional redistricting principles.

48. My review of the enacted house and senate plans combined with drawing the blind illustrative plans demonstrates the tendency that racial considerations had an effect on district composition and district shapes in the enacted plans.

I reserve the right to continue to supplement my declaration based on additional facts, testimony, and/or materials.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct according to the best of my knowledge, information, and belief.

This 5th day of December, 2022.



JOHN B. MORGAN

Exhibit 1

JOHN B. MORGAN

Curriculum Vitae

Redistricting Background and Experience

- Performed redistricting work in 20 states, in the areas of map drawing, problem-solving and redistricting software operation.
- Performed demographic and election analysis work in 40 states, for both statewide and legislative candidates

2021-2022 Redistricting Cycle

- Mapping expert for Michigan Independent Citizens Redistricting Commission
- Mapping expert for Virginia Redistricting Commission
- Mapping expert for New Jersey Congressional Redistricting Commission
- Mapping expert for New Jersey Legislative Redistricting Commission
- Staff analyst for New Mexico Senate Republican caucus – Dec. 2021 special session
- Mapping consultant to Indiana State Senate Republican caucus
- Mapping consultant to redistricting commissioners in Atlantic County, New Jersey
- Drafted county commission districts for Sampson County, North Carolina
- Drafted wards for town of Brownsburg, Indiana

2011-2012 Redistricting Cycle

- Served as a consultant for:
 - Connecticut Redistricting Commission
 - Ohio Reapportionment Board
 - New Jersey Legislative Redistricting Commission
 - New Jersey Congressional Redistricting Commission
 - Pennsylvania Legislative Reapportionment Commission
- Drafted Wake County, North Carolina school board districts
- Drafted county commission districts in Sampson and Craven counties in North Carolina and Atlantic County in New Jersey
- Worked with redistricting commissions in Atlantic and Essex counties, New Jersey.
- Worked on statewide congressional, legislative, and local plans in the following states: Connecticut, Indiana, Kansas, Missouri, New Jersey, New Mexico, North Carolina, Ohio, Pennsylvania, South Carolina, and Virginia
- Plans drafted by Morgan adopted in whole or part by the following states: Connecticut, Indiana, New Jersey, New Mexico, North Carolina, South Carolina, Virginia.

2001-2002 Redistricting Cycle

- Worked on statewide congressional and legislative redistricting plans in the following states: Florida, Georgia, Indiana, Iowa, New Jersey, North Carolina, Pennsylvania, Rhode Island, and Virginia.
- Dealt with redistricting issues as a member of the Majority Leader's legislative staff in Virginia House of Delegates. Drafted alternate plans for use by the minority parties in

Rhode Island. Drafted alternate plans for use by legislative leadership in considering plans drawn by redistricting commission staff in Iowa.

1991-1992 Redistricting Cycle

- Worked on statewide congressional and legislative redistricting plans in the following states: Florida, Illinois, Indiana, Michigan, New Jersey, New York, Pennsylvania, Wisconsin.
- Focused primarily on Voting Rights Act issues with Black, Hispanic and Asian communities.
- Federal court incorporated portion of legislative plan drafted in part by Morgan for Wisconsin into final decree, finding the configuration superior to other plans in its treatment of minority voters.

Expert Experience and Trial Testimony

- Recognized as an expert in demographics and redistricting in *Egolf v. Duran*, New Mexico First Judicial District Court, Case No. D-101-CV-2011-02942, which dealt with New Mexico's legislative plans.
- In *Egolf v. Duran*, the Court adopted a House redistricting plan principally drafted by Morgan.
- Filed expert reports in *Georgia State Conference of NAACP v. Fayette County Board of Commissioners*.
- Filed expert reports and expert testimony in *Page v. Board of Elections*, Eastern District of Virginia; provided expert testimony at trial.
- Testified at trial in *Bethune Hill v. Virginia Board of Elections* and *Vesilind v. Virginia Board of Elections*.
- Filed expert report in *Georgia NAACP v. Gwinnett County*.
- Filed expert reports and expert testimony *Alpha Phi Alpha v. Raffensperger; Grant v. Raffensperger; and Pendergrass v. Raffensperger*

Education

- Bachelor of Arts degree in History from the University of Chicago
- Graduated with honors.
- Bachelor's Honors thesis on "The Net Effects of Gerrymandering 1896-1932."
- Demographic study on LaSalle, Illinois was published in *The History of the Illinois and Michigan Canal, Volume Five*.

Employment

- President of Applied Research Coordinates, a consulting firm specializing in political and demographic analysis and its application to elections and redistricting, 2007 to present
- Redistricting consultant for many legislatures and commissions: 1991, 2001, 2011, 2021
- Executive Director, GOPAC (Hon. J.C. Watts, Chairman), 2004-2007
- Vice-President of Applied Research Coordinates, 1999-2004
- National Field Director, GOPAC (Rep. John Shadegg, Chairman) 1995-1999
- Research Analyst, Applied Research Coordinates 1991-1995
- Research Analyst, Republican National Committee 1988-1989, summer

Exhibit 2

User:

Plan Name: GA_House2021

Plan Type:

Population Summary

Population Summary

GA_House2021

District	Population	Deviation	% Devn.	[% 18+ _AP_Blak]	[% Black]
001	59,666	155	0.26%	4.2%	3.94%
002	59,773	262	0.44%	3.15%	2.68%
003	60,199	688	1.16%	3.35%	2.9%
004	59,070	-441	-0.74%	5.38%	4.41%
005	58,837	-674	-1.13%	4.6%	3.88%
006	59,712	201	0.34%	1.51%	1.07%
007	59,081	-430	-0.72%	0.62%	0.4%
008	59,244	-267	-0.45%	1.43%	1.16%
009	59,474	-37	-0.06%	1.57%	1.05%
010	59,519	8	0.01%	3.73%	3.03%
011	58,792	-719	-1.21%	1.85%	1.61%
012	59,300	-211	-0.35%	9.68%	8.68%
013	59,150	-361	-0.61%	19.18%	18.92%
014	59,135	-376	-0.63%	6.85%	5.98%
015	59,213	-298	-0.50%	14.19%	13.85%
016	59,402	-109	-0.18%	11.69%	11.36%
017	59,120	-391	-0.66%	23.02%	22.54%
018	59,335	-176	-0.30%	7.98%	7.19%
019	58,955	-556	-0.93%	24.15%	23.95%
020	60,107	596	1.00%	9.25%	8.34%
021	59,529	18	0.03%	5.06%	4.37%
022	59,460	-51	-0.09%	15.1%	14.31%
023	59,048	-463	-0.78%	6.5%	5.81%
024	59,011	-500	-0.84%	7%	6.14%
025	59,414	-97	-0.16%	5.9%	5.06%
026	59,248	-263	-0.44%	4.01%	3.41%

User:

Plan Name: GA_House2021

Plan Type:

Population Summary

Population Summary

GA_House2021

District	Population	Deviation	% Devn.	[% 18+ _AP_Blak]	[% Black]
027	58,795	-716	-1.20%	3.69%	3.31%
028	58,972	-539	-0.91%	3.93%	3.49%
029	59,200	-311	-0.52%	13.59%	12.45%
030	59,266	-245	-0.41%	8.1%	7.56%
031	59,901	390	0.66%	7.57%	6.83%
032	59,145	-366	-0.62%	7.96%	7.33%
033	59,187	-324	-0.54%	11.2%	11.02%
034	59,875	364	0.61%	15.67%	14.73%
035	59,889	378	0.64%	28.4%	27.13%
036	59,994	483	0.81%	16.98%	16.26%
037	59,176	-335	-0.56%	28.18%	26.57%
038	59,317	-194	-0.33%	54.23%	53.68%
039	59,381	-130	-0.22%	55.29%	52.84%
040	59,044	-467	-0.78%	32.98%	31.39%
041	60,122	611	1.03%	39.35%	37%
042	59,620	109	0.18%	33.7%	31.87%
043	59,464	-47	-0.08%	26.53%	24.83%
044	60,002	491	0.83%	12.05%	11.23%
045	59,738	227	0.38%	5.28%	4.24%
046	59,108	-403	-0.68%	8.07%	6.93%
047	59,126	-385	-0.65%	10.72%	9.59%
048	59,003	-508	-0.85%	11.79%	10.38%
049	59,153	-358	-0.60%	8.42%	7.33%
050	59,523	12	0.02%	12.4%	11.3%
051	58,952	-559	-0.94%	23.68%	22.42%
052	59,811	300	0.50%	15.99%	13.94%

User:

Plan Name: GA_House2021

Plan Type:

Population Summary

Population Summary

GA_House2021

District	Population	Deviation	% Devn.	[% 18+ _AP_Blak]	[% Black]
053	59,953	442	0.74%	14.53%	12.59%
054	60,083	572	0.96%	15.47%	13.25%
055	59,971	460	0.77%	55.38%	55.03%
056	58,929	-582	-0.98%	45.48%	46.85%
057	59,969	458	0.77%	18.06%	15.89%
058	59,057	-454	-0.76%	63.04%	63.71%
059	59,434	-77	-0.13%	70.09%	70.27%
060	59,709	198	0.33%	63.88%	62.26%
061	59,302	-209	-0.35%	74.29%	72.27%
062	59,450	-61	-0.10%	72.26%	70.86%
063	59,381	-130	-0.22%	69.33%	68.64%
064	58,986	-525	-0.88%	30.72%	29.91%
065	59,464	-47	-0.08%	61.98%	60.74%
066	59,047	-464	-0.78%	53.41%	52.9%
067	59,135	-376	-0.63%	58.92%	57.71%
068	59,477	-34	-0.06%	55.75%	55.2%
069	58,682	-829	-1.39%	63.56%	62.55%
070	59,121	-390	-0.66%	27.83%	27.99%
071	59,538	27	0.05%	19.92%	19.16%
072	59,660	149	0.25%	20.86%	19.64%
073	60,036	525	0.88%	12.11%	11.47%
074	58,956	-555	-0.93%	25.52%	25.53%
075	59,743	232	0.39%	74.4%	72.26%
076	59,759	248	0.42%	67.23%	64.99%
077	59,242	-269	-0.45%	76.13%	73.39%
078	59,044	-467	-0.78%	71.58%	70.32%

User:

Plan Name: GA_House2021

Plan Type:

Population Summary

Population Summary

GA_House2021

District	Population	Deviation	% Devn.	[% 18+ _AP_Blak]	[% Black]
079	59,500	-11	-0.02%	71.59%	69.08%
080	59,461	-50	-0.08%	14.18%	12%
081	59,007	-504	-0.85%	21.83%	19.09%
082	59,724	213	0.36%	16.83%	14.66%
083	59,416	-95	-0.16%	15.12%	12.45%
084	59,862	351	0.59%	73.66%	70.46%
085	59,373	-138	-0.23%	62.71%	60.9%
086	59,205	-306	-0.51%	75.05%	72.44%
087	59,709	198	0.33%	73.08%	70.92%
088	59,689	178	0.30%	63.35%	61.41%
089	59,866	355	0.60%	62.54%	60.27%
090	59,812	301	0.51%	58.49%	57.69%
091	60,050	539	0.91%	70.04%	68.63%
092	60,273	762	1.28%	68.79%	68.31%
093	60,118	607	1.02%	65.36%	64.04%
094	59,211	-300	-0.50%	69.04%	66.81%
095	60,030	519	0.87%	67.15%	65.91%
096	59,515	4	0.01%	23%	21.31%
097	59,072	-439	-0.74%	26.77%	25.79%
098	59,998	487	0.82%	23.25%	20.23%
099	59,850	339	0.57%	14.71%	13.8%
100	60,030	519	0.87%	10.01%	9.19%
101	59,938	427	0.72%	24.19%	22.9%
102	58,959	-552	-0.93%	37.62%	37.16%
103	60,197	686	1.15%	16.79%	15.52%
104	59,362	-149	-0.25%	17.03%	15.96%

User:

Plan Name: GA_House2021

Plan Type:

Population Summary

Population Summary

GA_House2021

District	Population	Deviation	% Devn.	[% 18+ _AP_Blkl	[% Black]
105	59,344	-167	-0.28%	29.05%	28.45%
106	59,112	-399	-0.67%	36.27%	36.27%
107	59,702	191	0.32%	29.63%	28.16%
108	59,577	66	0.11%	18.35%	17.71%
109	59,630	119	0.20%	32.51%	30.16%
110	59,951	440	0.74%	47.19%	46.58%
111	60,009	498	0.84%	22.29%	22.08%
112	59,349	-162	-0.27%	19.21%	19.06%
113	60,053	542	0.91%	59.53%	58.29%
114	59,867	356	0.60%	24.74%	24.16%
115	60,174	663	1.11%	52.13%	52.13%
116	59,913	402	0.68%	58.12%	57.58%
117	60,130	619	1.04%	36.61%	36.43%
118	59,987	476	0.80%	23.6%	22.72%
119	58,947	-564	-0.95%	13.49%	12.73%
120	58,982	-529	-0.89%	14.28%	13.65%
121	59,127	-384	-0.65%	9.56%	8.8%
122	59,632	121	0.20%	28.42%	30.85%
123	59,282	-229	-0.38%	24.28%	23.91%
124	59,221	-290	-0.49%	25.58%	26.18%
125	60,137	626	1.05%	23.68%	22.24%
126	59,260	-251	-0.42%	54.47%	54.3%
127	58,678	-833	-1.40%	18.52%	17.46%
128	58,864	-647	-1.09%	50.41%	51.11%
129	58,829	-682	-1.15%	54.87%	55.5%
130	59,203	-308	-0.52%	59.91%	60.84%

User:

Plan Name: GA_House2021

Plan Type:

Population Summary

Population Summary

GA_House2021

District	Population	Deviation	% Devn.	[% 18+ _AP_Blkl	[% Black]
131	58,890	-621	-1.04%	17.62%	16.38%
132	59,142	-369	-0.62%	52.34%	52.48%
133	59,202	-309	-0.52%	36.76%	37.23%
134	59,396	-115	-0.19%	33.57%	34.39%
135	60,063	552	0.93%	23.75%	22.95%
136	59,298	-213	-0.36%	28.67%	28.15%
137	59,551	40	0.07%	52.13%	51.92%
138	58,912	-599	-1.01%	19.32%	18.92%
139	59,010	-501	-0.84%	20.27%	19.63%
140	59,294	-217	-0.36%	57.63%	56.56%
141	59,019	-492	-0.83%	57.46%	55.6%
142	59,608	97	0.16%	59.52%	61.09%
143	59,469	-42	-0.07%	60.79%	62%
144	59,232	-279	-0.47%	29.32%	29.49%
145	59,863	352	0.59%	35.67%	36%
146	60,203	692	1.16%	27.61%	27.04%
147	59,178	-333	-0.56%	30.12%	29.91%
148	59,984	473	0.79%	34.02%	34.09%
149	58,893	-618	-1.04%	32.15%	31.8%
150	59,276	-235	-0.39%	53.56%	53.5%
151	60,059	548	0.92%	42.41%	42.45%
152	60,134	623	1.05%	26.06%	25.98%
153	59,299	-212	-0.36%	67.95%	69.44%
154	59,994	483	0.81%	54.82%	55.77%
155	58,759	-752	-1.26%	35.85%	36.36%
156	59,444	-67	-0.11%	30.25%	29.97%

User:

Plan Name: GA_House2021

Plan Type:

Population Summary

Population Summary

GA_House2021

District	Population	Deviation	% Devn.	[% 18+ _AP_Blkl	[% Black]
157	59,957	446	0.75%	24.67%	23.82%
158	59,440	-71	-0.12%	31.19%	31.67%
159	59,895	384	0.65%	24.5%	24.02%
160	59,935	424	0.71%	22.6%	22.04%
161	60,097	586	0.98%	27.14%	26.27%
162	60,308	797	1.34%	43.73%	43.95%
163	60,123	612	1.03%	45.49%	46.54%
164	60,101	590	0.99%	23.47%	22.55%
165	59,978	467	0.78%	50.33%	52.86%
166	60,242	731	1.23%	5.67%	5.04%
167	59,493	-18	-0.03%	22.28%	21.4%
168	60,147	636	1.07%	46.26%	44.49%
169	59,138	-373	-0.63%	29.04%	29.04%
170	60,116	605	1.02%	24.22%	24.56%
171	59,237	-274	-0.46%	39.6%	40%
172	59,961	450	0.76%	23.32%	23.41%
173	59,743	232	0.39%	36.27%	36.4%
174	59,852	341	0.57%	17.37%	17.42%
175	59,993	482	0.81%	24.17%	23.98%
176	59,470	-41	-0.07%	22.68%	21.96%
177	59,992	481	0.81%	53.88%	55.26%
178	59,877	366	0.62%	14.79%	14.59%
179	59,356	-155	-0.26%	27.03%	28.66%
180	59,412	-99	-0.17%	18.21%	17.31%

Total Population: 10,711,908

User:

Plan Name: GA_House2021

Plan Type:

Population Summary

Population Summary

GA_House2021

District	Population	Deviation	% Devn.	[% 18+ _AP_Blak]	[% Black]
Ideal District Population:	59,511				
Summary Statistics:					
Population Range:	58,678 to 60,308				
Ratio Range:	0.03				
Absolute Range:	-833 to 797				
Absolute Overall Range:	1630				
Relative Range:	-1.40% to 1.34%				
Relative Overall Range:	2.74%				
Absolute Mean Deviation:	363.71				
Relative Mean Deviation:	0.61%				
Standard Deviation:	417.67				

Exhibit 3

User:

Plan Name: GA_House2021

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House2021

Number of subdivisions not split:

County	90
Voting District	2,514

Number of subdivisions split into more than one district:

County	69
Voting District	184

Number of splits involving no population:

County	0
Voting District	16

Split Counts

County

Cases where an area is split among 2 Districts: 34
 Cases where an area is split among 3 Districts: 9
 Cases where an area is split among 4 Districts: 12
 Cases where an area is split among 5 Districts: 4
 Cases where an area is split among 6 Districts: 3
 Cases where an area is split among 7 Districts: 2
 Cases where an area is split among 9 Districts: 1
 Cases where an area is split among 14 Districts: 1
 Cases where an area is split among 17 Districts: 1
 Cases where an area is split among 21 Districts: 1
 Cases where an area is split among 22 Districts: 1

Voting District

Cases where an area is split among 2 Districts: 175
 Cases where an area is split among 3 Districts: 10

County	Voting District	District	Population
<i>Split Counties:</i>			
Appling GA		157	12,825
Appling GA		178	5,619

User:

Plan Name: GA_House2021

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House2021

Baldwin GA	128	5,158
Baldwin GA	133	38,641
Barrow GA	104	24,245
Barrow GA	119	54,736
Barrow GA	120	4,524
Bartow GA	014	49,688
Bartow GA	015	59,213
Ben Hill GA	148	5,115
Ben Hill GA	156	12,079
Bibb GA	142	59,608
Bibb GA	143	59,469
Bibb GA	144	33,948
Bibb GA	145	4,321
Bryan GA	160	11,008
Bryan GA	164	21,420
Bryan GA	166	12,310
Bulloch GA	158	19,285
Bulloch GA	159	12,887
Bulloch GA	160	48,927
Carroll GA	018	18,789
Carroll GA	070	2,854
Carroll GA	071	59,538
Carroll GA	072	37,967
Catoosa GA	002	7,673
Catoosa GA	003	60,199
Chatham GA	161	28,269
Chatham GA	162	60,308
Chatham GA	163	60,123
Chatham GA	164	38,681
Chatham GA	165	59,978
Chatham GA	166	47,932

User:

Plan Name: GA_House2021

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House2021

Cherokee GA	011	6,557
Cherokee GA	014	9,447
Cherokee GA	020	60,107
Cherokee GA	021	59,529
Cherokee GA	022	30,874
Cherokee GA	023	59,048
Cherokee GA	044	21,989
Cherokee GA	046	15,178
Cherokee GA	047	3,891
Clarke GA	120	30,095
Clarke GA	121	26,478
Clarke GA	122	59,632
Clarke GA	124	12,466
Clayton GA	075	59,743
Clayton GA	076	59,759
Clayton GA	077	59,242
Clayton GA	078	55,197
Clayton GA	079	59,500
Clayton GA	116	4,154
Cobb GA	022	28,586
Cobb GA	034	59,875
Cobb GA	035	59,889
Cobb GA	036	59,994
Cobb GA	037	59,176
Cobb GA	038	59,317
Cobb GA	039	59,381
Cobb GA	040	59,044
Cobb GA	041	60,122
Cobb GA	042	59,620
Cobb GA	043	59,464
Cobb GA	044	38,013

User:

Plan Name: GA_House2021

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House2021

Cobb GA	045	59,738
Cobb GA	046	43,930
Coffee GA	169	33,736
Coffee GA	176	9,356
Columbia GA	123	2,205
Columbia GA	125	55,389
Columbia GA	127	39,526
Columbia GA	131	58,890
Cook GA	170	7,342
Cook GA	172	9,887
Coweta GA	065	13,008
Coweta GA	067	17,272
Coweta GA	070	56,267
Coweta GA	073	31,608
Coweta GA	136	28,003
Dawson GA	007	2,409
Dawson GA	009	24,389
DeKalb GA	052	28,300
DeKalb GA	080	59,461
DeKalb GA	081	59,007
DeKalb GA	082	59,724
DeKalb GA	083	59,416
DeKalb GA	084	59,862
DeKalb GA	085	59,373
DeKalb GA	086	59,205
DeKalb GA	087	59,709
DeKalb GA	088	47,844
DeKalb GA	089	59,866
DeKalb GA	090	59,812
DeKalb GA	091	19,700
DeKalb GA	092	15,607

User:

Plan Name: GA_House2021

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House2021

DeKalb GA	093	11,690
DeKalb GA	094	31,207
DeKalb GA	095	14,599
Dougherty GA	151	6,268
Dougherty GA	152	6,187
Dougherty GA	153	59,299
Dougherty GA	154	14,036
Douglas GA	061	30,206
Douglas GA	064	35,576
Douglas GA	065	19,408
Douglas GA	066	59,047
Effingham GA	159	32,941
Effingham GA	161	31,828
Fayette GA	068	29,719
Fayette GA	069	37,303
Fayette GA	073	28,428
Fayette GA	074	23,744
Floyd GA	005	5,099
Floyd GA	012	34,335
Floyd GA	013	59,150
Forsyth GA	011	19,019
Forsyth GA	024	59,011
Forsyth GA	025	46,134
Forsyth GA	026	59,248
Forsyth GA	028	50,864
Forsyth GA	100	17,007
Fulton GA	025	13,280
Fulton GA	047	55,235
Fulton GA	048	43,976
Fulton GA	049	59,153
Fulton GA	050	59,523

User:

Plan Name: GA_House2021

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House2021

Fulton GA	051	58,952
Fulton GA	052	31,511
Fulton GA	053	59,953
Fulton GA	054	60,083
Fulton GA	055	59,971
Fulton GA	056	58,929
Fulton GA	057	59,969
Fulton GA	058	59,057
Fulton GA	059	59,434
Fulton GA	060	59,709
Fulton GA	061	29,096
Fulton GA	062	59,450
Fulton GA	063	59,381
Fulton GA	065	27,048
Fulton GA	067	41,863
Fulton GA	068	29,758
Fulton GA	069	21,379
Glynn GA	167	20,499
Glynn GA	179	59,356
Glynn GA	180	4,644
Gordon GA	005	53,738
Gordon GA	006	3,806
Grady GA	171	8,115
Grady GA	173	18,121
Gwinnett GA	030	8,620
Gwinnett GA	048	15,027
Gwinnett GA	088	11,845
Gwinnett GA	094	28,004
Gwinnett GA	095	34,221
Gwinnett GA	096	59,515
Gwinnett GA	097	59,072

User:

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Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House2021

Gwinnett GA	098	59,998
Gwinnett GA	099	59,850
Gwinnett GA	100	35,204
Gwinnett GA	101	59,938
Gwinnett GA	102	58,959
Gwinnett GA	103	51,691
Gwinnett GA	104	35,117
Gwinnett GA	105	59,344
Gwinnett GA	106	59,112
Gwinnett GA	107	59,702
Gwinnett GA	108	59,577
Gwinnett GA	109	59,630
Gwinnett GA	110	59,951
Gwinnett GA	111	22,685
Habersham GA	010	42,636
Habersham GA	032	3,395
Hall GA	027	54,508
Hall GA	028	8,108
Hall GA	029	59,200
Hall GA	030	50,646
Hall GA	031	14,349
Hall GA	100	7,819
Hall GA	103	8,506
Harris GA	138	21,634
Harris GA	139	13,034
Henry GA	074	18,397
Henry GA	078	3,847
Henry GA	091	35,569
Henry GA	115	60,174
Henry GA	116	55,759
Henry GA	117	54,737

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Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House2021

Henry GA	118	12,229
Houston GA	145	28,132
Houston GA	146	60,203
Houston GA	147	59,178
Houston GA	148	16,120
Jackson GA	031	45,552
Jackson GA	032	10,931
Jackson GA	119	4,211
Jackson GA	120	15,213
Jasper GA	114	2,855
Jasper GA	118	11,733
Jones GA	133	20,561
Jones GA	144	7,786
Lamar GA	134	5,026
Lamar GA	135	13,474
Liberty GA	167	5,109
Liberty GA	168	60,147
Lowndes GA	174	9,770
Lowndes GA	175	43,692
Lowndes GA	176	4,797
Lowndes GA	177	59,992
Lumpkin GA	009	29,201
Lumpkin GA	027	4,287
Madison GA	033	9,935
Madison GA	123	20,185
McDuffie GA	125	4,748
McDuffie GA	128	16,884
Meriwether GA	136	13,382
Meriwether GA	137	7,231
Monroe GA	134	9,272
Monroe GA	144	17,498

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Plan Name: GA_House2021

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Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House2021

Monroe GA	145	1,187
Muscogee GA	137	30,443
Muscogee GA	138	12,190
Muscogee GA	139	45,976
Muscogee GA	140	59,294
Muscogee GA	141	59,019
Newton GA	093	15,515
Newton GA	113	60,053
Newton GA	114	36,915
Oconee GA	120	9,150
Oconee GA	121	32,649
Paulding GA	016	16,549
Paulding GA	017	59,120
Paulding GA	018	10,627
Paulding GA	019	58,955
Paulding GA	064	23,410
Peach GA	145	14,093
Peach GA	150	13,888
Putnam GA	118	10,591
Putnam GA	124	11,456
Richmond GA	126	25,990
Richmond GA	127	19,152
Richmond GA	129	58,829
Richmond GA	130	59,203
Richmond GA	132	43,433
Rockdale GA	091	4,781
Rockdale GA	092	44,666
Rockdale GA	093	32,913
Rockdale GA	095	11,210
Spalding GA	074	16,815
Spalding GA	117	5,393

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Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House2021

Spalding GA		134	45,098
Sumter GA		150	14,282
Sumter GA		151	15,334
Tattnall GA		156	1,263
Tattnall GA		157	21,579
Telfair GA		149	9,486
Telfair GA		156	2,991
Thomas GA		172	4,176
Thomas GA		173	41,622
Tift GA		169	6,730
Tift GA		170	34,614
Troup GA		072	10,281
Troup GA		136	17,913
Troup GA		137	16,144
Troup GA		138	25,088
Walker GA		001	43,415
Walker GA		002	24,239
Walton GA		111	37,324
Walton GA		112	59,349
Ware GA		174	9,097
Ware GA		176	27,154
Wayne GA		167	6,742
Wayne GA		178	23,402
White GA		008	22,119
White GA		009	5,884
Whitfield GA		002	27,861
Whitfield GA		004	59,070
Whitfield GA		006	15,933
<i>Split VTDs:</i>			
Barrow GA	16	104	1,708
Barrow GA	16	119	8,060

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Political Subdivision Splits Between Districts

GA_House2021

Bartow GA	CASSVILLE	014	15,558
Bartow GA	CASSVILLE	015	1,047
Bartow GA	WHITE	014	3,335
Bartow GA	WHITE	015	211
Ben Hill GA	WEST	148	5,115
Ben Hill GA	WEST	156	5,229
Bibb GA	HOWARD 1	142	2,326
Bibb GA	HOWARD 1	144	3,617
Bibb GA	HOWARD 2	142	2,369
Bibb GA	HOWARD 2	144	3,076
Bibb GA	HOWARD 3	142	0
Bibb GA	HOWARD 3	144	12,654
Bibb GA	WARRIOR 2	142	4,426
Bibb GA	WARRIOR 2	145	852
Bryan GA	DANIELSIDING	164	1,268
Bryan GA	DANIELSIDING	166	1,741
Bryan GA	HWY 144 EAST	164	4,552
Bryan GA	HWY 144 EAST	166	4,707
Bryan GA	J.F.GREGORY PARK	164	3,489
Bryan GA	J.F.GREGORY PARK	166	144
Bulloch GA	CHURCH	158	3,764
Bulloch GA	CHURCH	159	5,869
Carroll GA	BONNER	071	410
Carroll GA	BONNER	072	5,554
Chatham GA	CRUSADER COMMUNITY CENTER	162	2,134
Chatham GA	CRUSADER COMMUNITY CENTER	166	1,493
Chatham GA	GEORGETOWN ELEMENTAR	164	5,562

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Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts		GA_House2021	
Chatham GA	GEORGETOWN ELEMENTAR	166	0
Chatham GA	GRACE UNITED METHODIST CHURCH	163	2,064
Chatham GA	GRACE UNITED METHODIST CHURCH	165	397
Chatham GA	ROTHWELL BAPTIST CHURCH	161	5,335
Chatham GA	ROTHWELL BAPTIST CHURCH	164	4,987
Chatham GA	THE LIGHT CHURCH	162	1,177
Chatham GA	THE LIGHT CHURCH	163	1,109
Chatham GA	WINDSOR FOREST BAPTIST CHURCH SCHOOL	163	785
Chatham GA	WINDSOR FOREST BAPTIST CHURCH SCHOOL	166	1,890
Cherokee GA	CARMEL	020	5,626
Cherokee GA	CARMEL	022	1,222
Cherokee GA	CARMEL	044	0
Cherokee GA	FREEHOME	021	3,200
Cherokee GA	FREEHOME	047	3,891
Cherokee GA	HOLLY SPRINGS	021	2,250
Cherokee GA	HOLLY SPRINGS	023	2,578
Clarke GA	1A	122	2,758
Clarke GA	1A	124	2,286
Clarke GA	4B	121	7,082
Clarke GA	4B	122	5,589
Clarke GA	7C	120	1,922
Clarke GA	7C	121	3,184
Clayton GA	LOVEJOY 1	075	5,018

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Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts		GA_House2021	
Clayton GA	LOVEJOY 1	078	601
Clayton GA	LOVEJOY 3	078	9,099
Clayton GA	LOVEJOY 3	116	4,154
Clayton GA	MORROW 4	076	1,911
Clayton GA	MORROW 4	078	1,316
Cobb GA	Acworth 1B	035	7,322
Cobb GA	Acworth 1B	036	142
Cobb GA	Baker 01	022	5,226
Cobb GA	Baker 01	035	1,996
Cobb GA	Bells Ferry 03	022	4,918
Cobb GA	Bells Ferry 03	044	3,763
Cobb GA	Dobbins 01	042	11,055
Cobb GA	Dobbins 01	043	2,346
Cobb GA	Elizabeth 01	034	700
Cobb GA	Elizabeth 01	037	5,170
Cobb GA	Elizabeth 04	037	2,031
Cobb GA	Elizabeth 04	043	2,387
Cobb GA	Kennesaw 1A	022	599
Cobb GA	Kennesaw 1A	035	3,844
Cobb GA	Kennesaw 3A	022	0
Cobb GA	Kennesaw 3A	034	871
Cobb GA	Kennesaw 3A	035	8,631
Cobb GA	Lassiter 01	044	2,121
Cobb GA	Lassiter 01	046	2,600
Cobb GA	Lindley 01	039	5,678
Cobb GA	Lindley 01	040	582
Cobb GA	Mableton 01	038	1,589
Cobb GA	Mableton 01	039	5,513
Cobb GA	Mableton 02	038	256
Cobb GA	Mableton 02	039	5,427
Cobb GA	Marietta 1A	037	3,349

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Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts		GA_House2021	
Cobb GA	Marietta 1A	043	6,645
Cobb GA	Marietta 2A	034	1,664
Cobb GA	Marietta 2A	037	811
Cobb GA	Marietta 5A	037	2,877
Cobb GA	Marietta 5A	043	1,457
Cobb GA	Marietta 6A	037	1,532
Cobb GA	Marietta 6A	043	3,022
Cobb GA	Marietta 7A	042	1,494
Cobb GA	Marietta 7A	043	5,417
Cobb GA	North Cobb 01	035	2,611
Cobb GA	North Cobb 01	036	559
Cobb GA	Norton Park 01	041	1,955
Cobb GA	Norton Park 01	042	5,846
Cobb GA	Oregon 03	037	6,683
Cobb GA	Oregon 03	041	6,305
Cobb GA	Pine Mountain 02	034	3,976
Cobb GA	Pine Mountain 02	035	0
Cobb GA	Smyrna 1A	040	1,292
Cobb GA	Smyrna 1A	042	5,341
Cobb GA	Smyrna 4A	040	6,599
Cobb GA	Smyrna 4A	042	1,609
Cobb GA	Smyrna 7A	039	905
Cobb GA	Smyrna 7A	040	7,690
Coffee GA	DOUGLAS	169	19,642
Coffee GA	DOUGLAS	176	8,929
Columbia GA	PATRIOTS PARK	125	326
Columbia GA	PATRIOTS PARK	131	5,958
Coweta GA	JEFFERSON PARKWAY	070	12,590
Coweta GA	JEFFERSON PARKWAY	073	1,521
DeKalb GA	Cedar Grove Middle	089	2,204
DeKalb GA	Cedar Grove Middle	090	316

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Political Subdivision Splits Between Districts

GA_House2021

DeKalb GA	Clarkston	085	5,454
DeKalb GA	Clarkston	086	9,300
DeKalb GA	Dresden Elem (CHA)	081	5,398
DeKalb GA	Dresden Elem (CHA)	083	7,691
DeKalb GA	Freedom Middle	086	1,002
DeKalb GA	Freedom Middle	087	3,088
DeKalb GA	Glennwood (DEC)	082	2,059
DeKalb GA	Glennwood (DEC)	084	1,221
DeKalb GA	Glennwood Road	085	1,698
DeKalb GA	Glennwood Road	086	1,064
DeKalb GA	Memorial South	086	2,226
DeKalb GA	Memorial South	087	2,547
DeKalb GA	Panola Road	086	3,296
DeKalb GA	Panola Road	094	460
DeKalb GA	Redan Middle	087	1,419
DeKalb GA	Redan Middle	088	1,633
DeKalb GA	Rockbridge Road	094	3,736
DeKalb GA	Rockbridge Road	095	1,104
DeKalb GA	Snapfinger Road South	084	920
DeKalb GA	Snapfinger Road South	091	1,271
DeKalb GA	Stone Mill Elem	087	1,863
DeKalb GA	Stone Mill Elem	088	4,069
DeKalb GA	Stone Mountain Champion (STO)	087	1,338
DeKalb GA	Stone Mountain Champion (STO)	088	2,865
DeKalb GA	Stone Mountain Middle (TUC)	087	656
DeKalb GA	Stone Mountain Middle (TUC)	088	3,960
DeKalb GA	Tucker Library (TUC)	081	2,394

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Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts		GA_House2021	
DeKalb GA	Tucker Library (TUC)	088	1,635
Dougherty GA	DARTON COLLEGE	151	4,018
Dougherty GA	DARTON COLLEGE	153	2,465
Dougherty GA	MT ZION CENTER	153	1,245
Dougherty GA	MT ZION CENTER	154	3,972
Effingham GA	4B	159	1,960
Effingham GA	4B	161	959
Fayette GA	ABERDEEN	068	983
Fayette GA	ABERDEEN	073	1,392
Fayette GA	BRAELINN	073	605
Fayette GA	BRAELINN	074	1,646
Fayette GA	STARRSMILL	073	1,932
Fayette GA	STARRSMILL	074	2,452
Floyd GA	ALTO PARK	012	1,576
Floyd GA	ALTO PARK	013	3,847
Floyd GA	MT ALTO NORTH	012	1,080
Floyd GA	MT ALTO NORTH	013	4,509
Forsyth GA	BROWNS BRIDGE	026	10,116
Forsyth GA	BROWNS BRIDGE	028	2,801
Forsyth GA	CONCORD	011	7,687
Forsyth GA	CONCORD	028	7,982
Forsyth GA	CUMMING	026	4,666
Forsyth GA	CUMMING	028	2,410
Forsyth GA	HEARDSVILLE	011	11,332
Forsyth GA	HEARDSVILLE	024	1,335
Forsyth GA	HEARDSVILLE	028	333
Forsyth GA	OTWELL	024	3,988
Forsyth GA	OTWELL	026	6,597
Forsyth GA	OTWELL	028	7,875
Forsyth GA	POLO	024	9,868
Forsyth GA	POLO	025	0

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Political Subdivision Splits Between Districts

GA_House2021

Forsyth GA	POLO	026	15,990
Forsyth GA	SOUTH FORSYTH	025	10,064
Forsyth GA	SOUTH FORSYTH	100	11,887
Forsyth GA	WINDERMERE	026	11,718
Forsyth GA	WINDERMERE	100	5,120
Fulton GA	08C	053	1,524
Fulton GA	08C	060	335
Fulton GA	09K	055	3,033
Fulton GA	09K	060	4,105
Fulton GA	10D	055	1,756
Fulton GA	10D	060	4,311
Fulton GA	11C	055	340
Fulton GA	11C	060	3,418
Fulton GA	AP022	048	862
Fulton GA	AP022	049	2,505
Fulton GA	AP07B	047	1,250
Fulton GA	AP07B	049	1,304
Fulton GA	AP14	048	4,109
Fulton GA	AP14	049	281
Fulton GA	EP01B	059	2,393
Fulton GA	EP01B	062	2,049
Fulton GA	JC19	048	3,608
Fulton GA	JC19	051	1,792
Fulton GA	ML012	047	501
Fulton GA	ML012	049	123
Fulton GA	ML01B	047	284
Fulton GA	ML01B	049	61
Fulton GA	RW03	051	1,292
Fulton GA	RW03	053	6,066
Fulton GA	RW09	047	2,971
Fulton GA	RW09	049	4,750

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Political Subdivision Splits Between Districts

GA_House2021

Fulton GA	SC02	060	220
Fulton GA	SC02	061	773
Fulton GA	SC05B	061	1,575
Fulton GA	SC05B	065	2,978
Fulton GA	SC07A	065	1,028
Fulton GA	SC07A	067	7,728
Fulton GA	SC08B	062	92
Fulton GA	SC08B	068	5,255
Fulton GA	SC13	065	2,858
Fulton GA	SC13	067	1,176
Fulton GA	UC02A	065	1,070
Fulton GA	UC02A	067	13,013
Gwinnett GA	BAYCREEK A	106	934
Gwinnett GA	BAYCREEK A	110	2,651
Gwinnett GA	BAYCREEK D	102	3,729
Gwinnett GA	BAYCREEK D	110	2,597
Gwinnett GA	BERKSHIRE H	098	2,475
Gwinnett GA	BERKSHIRE H	108	1,991
Gwinnett GA	CATES J	094	955
Gwinnett GA	CATES J	108	4,255
Gwinnett GA	DULUTH F	096	7,245
Gwinnett GA	DULUTH F	107	5,149
Gwinnett GA	DULUTH G	096	1,426
Gwinnett GA	DULUTH G	099	3,389
Gwinnett GA	DUNCANS D	030	8,620
Gwinnett GA	DUNCANS D	104	1,575
Gwinnett GA	LAWRENCEVILLE F	102	2,073
Gwinnett GA	LAWRENCEVILLE F	105	3,924
Gwinnett GA	LAWRENCEVILLE M	102	4,231
Gwinnett GA	LAWRENCEVILLE M	105	7,770
Gwinnett GA	MARTINS H	107	8,164

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Political Subdivision Splits Between Districts		GA_House2021	
Gwinnett GA	MARTINS H	109	892
Gwinnett GA	PINCKNEYVILLE W	096	5,745
Gwinnett GA	PINCKNEYVILLE W	097	2,561
Gwinnett GA	PUCKETTS E	103	1,506
Gwinnett GA	PUCKETTS E	105	7,421
Gwinnett GA	SUGAR HILL D	100	2,158
Gwinnett GA	SUGAR HILL D	103	6,421
Gwinnett GA	SUWANEE F	099	3,224
Gwinnett GA	SUWANEE F	103	2,836
Habersham GA	HABERSHAM SOUTH	010	8,687
Habersham GA	HABERSHAM SOUTH	032	1,972
Hall GA	WILSON	028	3,803
Hall GA	WILSON	029	4,979
Henry GA	FLIPPEN	115	0
Henry GA	FLIPPEN	116	5,686
Henry GA	HICKORY FLAT	115	7,135
Henry GA	HICKORY FLAT	116	17
Henry GA	LOWES	116	5,233
Henry GA	LOWES	117	8,688
Henry GA	RED OAK	078	3,847
Henry GA	RED OAK	116	3,999
Henry GA	STOCKBRIDGE CENTRAL	078	0
Henry GA	STOCKBRIDGE CENTRAL	091	7,453
Henry GA	SWAN LAKE	091	3,240
Henry GA	SWAN LAKE	115	1,518
Houston GA	CENT	145	69
Houston GA	CENT	147	11,815
Houston GA	FMMS	146	9,734
Houston GA	FMMS	147	3,595
Houston GA	HHPC	145	8,748
Houston GA	HHPC	147	6,643

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Political Subdivision Splits Between Districts

GA_House2021

Houston GA	MCMS	146	3,947
Houston GA	MCMS	147	9,547
Houston GA	RECR	145	15,867
Houston GA	RECR	146	0
Houston GA	RECR	147	1,931
Houston GA	ROZR	146	13,202
Houston GA	ROZR	148	7,640
Houston GA	VHS	146	5,586
Houston GA	VHS	148	4,039
Jackson GA	North Jackson	031	4,513
Jackson GA	North Jackson	032	10,931
Jackson GA	North Jackson	120	3,803
Jackson GA	West Jackson	031	16,656
Jackson GA	West Jackson	119	4,211
Jones GA	CLINTON	133	384
Jones GA	CLINTON	144	2,481
Lamar GA	MILNER	134	3,043
Lamar GA	MILNER	135	2,725
Liberty GA	BUTTON GWINNETT	167	5,109
Liberty GA	BUTTON GWINNETT	168	4,344
Lowndes GA	NORTHSIDE	175	8,373
Lowndes GA	NORTHSIDE	177	37,217
Lowndes GA	RAINWATER	175	6,400
Lowndes GA	RAINWATER	177	8,754
Lowndes GA	S LOWNDES	174	1,951
Lowndes GA	S LOWNDES	175	3,755
Lowndes GA	TRINITY	175	9,620
Lowndes GA	TRINITY	176	4,797
Lowndes GA	TRINITY	177	6,930
Lumpkin GA	DAHLONEGA	009	29,201
Lumpkin GA	DAHLONEGA	027	4,287

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Political Subdivision Splits Between Districts		GA_House2021	
Muscogee GA	CUSSETA RD	140	5,391
Muscogee GA	CUSSETA RD	141	5,010
Muscogee GA	EPWORTH UMC	139	3,363
Muscogee GA	EPWORTH UMC	140	4,560
Muscogee GA	FORT/WADDELL	137	5,599
Muscogee GA	FORT/WADDELL	141	6,645
Muscogee GA	OUR LADY OF LOURDES	140	13,744
Muscogee GA	OUR LADY OF LOURDES	141	32
Muscogee GA	ROTHSCHILD	137	8,327
Muscogee GA	ROTHSCHILD	141	3,143
Muscogee GA	ST ANDREWS/MIDLAND	139	5,899
Muscogee GA	ST ANDREWS/MIDLAND	141	5,582
Newton GA	CEDAR SHOALS	093	1,206
Newton GA	CEDAR SHOALS	113	3,687
Newton GA	FAIRVIEW	093	856
Newton GA	FAIRVIEW	113	3,443
Newton GA	TOWN	093	1,668
Newton GA	TOWN	113	5,075
Paulding GA	AUSTIN MIDDLE SCHOOL	018	916
Paulding GA	AUSTIN MIDDLE SCHOOL	064	9,977
Paulding GA	BURNT HICKORY PARK	016	8,392
Paulding GA	BURNT HICKORY PARK	017	16
Paulding GA	CARL SCOGGINS MID SC	017	517
Paulding GA	CARL SCOGGINS MID SC	018	7,991
Paulding GA	CARL SCOGGINS MID SC	019	1,240
Paulding GA	HIRAM HIGH SCHOOL	017	0
Paulding GA	HIRAM HIGH SCHOOL	019	16,110
Paulding GA	SARA RAGSDALE ELM SC	017	5,972
Paulding GA	SARA RAGSDALE ELM SC	018	1,720
Paulding GA	SHELTON ELEMENTARY SCHOOL	016	8,152

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Political Subdivision Splits Between Districts		GA_House2021	
Paulding GA	SHELTON ELEMENTARY SCHOOL	017	12,810
Paulding GA	SHELTON ELEMENTARY SCHOOL	019	5,455
Paulding GA	WATSON GOVERNMENT COMPLEX	016	5
Paulding GA	WATSON GOVERNMENT COMPLEX	017	17,525
Richmond GA	109	129	954
Richmond GA	109	130	886
Richmond GA	301	127	2,362
Richmond GA	301	129	894
Richmond GA	402	126	0
Richmond GA	402	132	9,711
Richmond GA	503	129	3,260
Richmond GA	503	132	2,535
Richmond GA	702	127	586
Richmond GA	702	129	2,007
Richmond GA	703	127	1,164
Richmond GA	703	129	6,148
Richmond GA	803	126	0
Richmond GA	803	132	2,432
Richmond GA	807	126	2,403
Richmond GA	807	132	0
Rockdale GA	MILSTEAD	093	6,444
Rockdale GA	MILSTEAD	095	0
Rockdale GA	OLD TOWNE	093	10,095
Rockdale GA	OLD TOWNE	095	872
Rockdale GA	ROCKDALE	092	6,218
Rockdale GA	ROCKDALE	093	79
Spalding GA	CARVER FIRE STATION	074	235

User:

Plan Name: GA_House2021

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House2021

Spalding GA	CARVER FIRE STATION	134	2,835
Spalding GA	GARY REID FIRE STATION	074	2,075
Spalding GA	GARY REID FIRE STATION	134	4,817
Spalding GA	UGA CAMPUS	074	787
Spalding GA	UGA CAMPUS	134	5,290
Sumter GA	GSW CONF CENTER	150	4,568
Sumter GA	GSW CONF CENTER	151	1,549
Sumter GA	REES PARK	150	5,179
Sumter GA	REES PARK	151	447
Troup GA	MOUNTVILLE	136	2,068
Troup GA	MOUNTVILLE	137	497
Walton GA	BROKEN ARROW	111	2,993
Walton GA	BROKEN ARROW	112	3,003
Ware GA	100	174	2,672
Ware GA	100	176	3,692
Ware GA	200A	174	0
Ware GA	200A	176	4,133
Ware GA	304	174	0
Ware GA	304	176	2,107
Ware GA	400	174	2,506
Ware GA	400	176	2,526
Wayne GA	OGLETHORPE	167	1,928
Wayne GA	OGLETHORPE	178	637
Whitfield GA	2A	002	3,864
Whitfield GA	2A	004	1,000
Whitfield GA	PLEASANT GROVE	002	6,210
Whitfield GA	PLEASANT GROVE	006	2,122

Exhibit 4

User:

Plan Name: GA_House2021

Plan Type:

Measures of Compactness Report

Measures of Compactness Report

GA_House2021

	Reock	Polsby-Popper
Sum	N/A	N/A
Min	0.12	0.10
Max	0.66	0.59
Mean	0.39	0.28
Std. Dev.	0.11	0.10

District	Reock	Polsby-Popper
001	0.53	0.45
002	0.53	0.24
003	0.50	0.41
004	0.37	0.21
005	0.43	0.25
006	0.45	0.26
007	0.62	0.50
008	0.46	0.27
009	0.47	0.30
010	0.34	0.30
011	0.31	0.26
012	0.47	0.31
013	0.47	0.19

User:

Plan Name: GA_House2021

Plan Type:

Measures of Compactness Report

Measures of Compactness Report

GA_House2021

014	0.32	0.23
015	0.55	0.33
016	0.31	0.35
017	0.28	0.21
018	0.41	0.25
019	0.26	0.26
020	0.46	0.45
021	0.26	0.27
022	0.28	0.22
023	0.40	0.19
024	0.35	0.30
025	0.39	0.31
026	0.27	0.26
027	0.60	0.34
028	0.38	0.35
029	0.34	0.21
030	0.43	0.30
031	0.44	0.25
032	0.39	0.33

User:

Plan Name: GA_House2021

Plan Type:

Measures of Compactness Report

Measures of Compactness Report

GA_House2021

033	0.49	0.37
034	0.45	0.33
035	0.32	0.24
036	0.32	0.23
037	0.45	0.28
038	0.59	0.58
039	0.59	0.40
040	0.49	0.29
041	0.60	0.40
042	0.40	0.21
043	0.42	0.22
044	0.31	0.29
045	0.41	0.32
046	0.55	0.47
047	0.29	0.21
048	0.34	0.19
049	0.30	0.15
050	0.42	0.46
051	0.54	0.36

User:

Plan Name: GA_House2021

Plan Type:

Measures of Compactness Report

Measures of Compactness Report

GA_House2021

052	0.48	0.35
053	0.16	0.14
054	0.37	0.45
055	0.18	0.16
056	0.26	0.23
057	0.57	0.59
058	0.13	0.13
059	0.12	0.11
060	0.19	0.15
061	0.25	0.20
062	0.16	0.10
063	0.16	0.14
064	0.37	0.36
065	0.46	0.17
066	0.36	0.25
067	0.36	0.12
068	0.32	0.17
069	0.40	0.25
070	0.45	0.23

User:

Plan Name: GA_House2021

Plan Type:

Measures of Compactness Report

Measures of Compactness Report

GA_House2021

071	0.44	0.35
072	0.42	0.23
073	0.28	0.20
074	0.50	0.25
075	0.42	0.28
076	0.53	0.51
077	0.40	0.21
078	0.21	0.19
079	0.50	0.21
080	0.38	0.42
081	0.47	0.40
082	0.49	0.30
083	0.34	0.36
084	0.25	0.20
085	0.36	0.32
086	0.17	0.17
087	0.26	0.24
088	0.26	0.20
089	0.14	0.10

User:

Plan Name: GA_House2021

Plan Type:

Measures of Compactness Report

Measures of Compactness Report

GA_House2021

090	0.36	0.29
091	0.45	0.20
092	0.36	0.20
093	0.26	0.11
094	0.31	0.15
095	0.44	0.25
096	0.18	0.21
097	0.28	0.24
098	0.42	0.52
099	0.36	0.29
100	0.34	0.29
101	0.53	0.46
102	0.56	0.35
103	0.33	0.24
104	0.28	0.25
105	0.34	0.28
106	0.66	0.50
107	0.51	0.32
108	0.43	0.32

User:

Plan Name: GA_House2021

Plan Type:

Measures of Compactness Report

Measures of Compactness Report

GA_House2021

109	0.39	0.28
110	0.36	0.33
111	0.33	0.29
112	0.62	0.52
113	0.50	0.32
114	0.51	0.28
115	0.44	0.23
116	0.41	0.28
117	0.41	0.28
118	0.35	0.22
119	0.39	0.21
120	0.44	0.25
121	0.43	0.30
122	0.48	0.43
123	0.30	0.18
124	0.44	0.23
125	0.41	0.17
126	0.52	0.41
127	0.35	0.20

User:

Plan Name: GA_House2021

Plan Type:

Measures of Compactness Report

Measures of Compactness Report

GA_House2021

128	0.60	0.32
129	0.48	0.25
130	0.51	0.25
131	0.38	0.28
132	0.27	0.30
133	0.55	0.42
134	0.33	0.23
135	0.57	0.42
136	0.54	0.26
137	0.33	0.16
138	0.33	0.20
139	0.28	0.23
140	0.29	0.19
141	0.26	0.20
142	0.35	0.23
143	0.50	0.30
144	0.51	0.32
145	0.38	0.19
146	0.26	0.19

User:

Plan Name: GA_House2021

Plan Type:

Measures of Compactness Report

Measures of Compactness Report

GA_House2021

147	0.33	0.26
148	0.44	0.24
149	0.32	0.22
150	0.44	0.28
151	0.53	0.22
152	0.40	0.30
153	0.30	0.30
154	0.41	0.33
155	0.49	0.48
156	0.23	0.20
157	0.32	0.19
158	0.48	0.33
159	0.34	0.22
160	0.49	0.37
161	0.51	0.31
162	0.37	0.21
163	0.27	0.18
164	0.30	0.17
165	0.23	0.16

User:

Plan Name: GA_House2021

Plan Type:

Measures of Compactness Report

Measures of Compactness Report

GA_House2021

166	0.43	0.36
167	0.42	0.19
168	0.24	0.26
169	0.28	0.23
170	0.53	0.34
171	0.35	0.37
172	0.44	0.32
173	0.57	0.38
174	0.41	0.24
175	0.47	0.37
176	0.34	0.16
177	0.43	0.34
178	0.48	0.22
179	0.45	0.42
180	0.61	0.40

Measures of Compactness Summary

Reock The measure is always between 0 and 1, with 1 being the most compact.

Polsby-Popper The measure is always between 0 and 1, with 1 being the most compact.

Exhibit 5

User:

Plan Name: GA_House2021

Plan Type:

Districts & Their Incumbents

Districts & Their Incumbents

GA_House2021

District	Name	Party	Previous District
001	Michael Cameron	R	1
002	Steve Tarvin	R	2
003	Dewayne Hill	R	3
004	Kasey Carpenter	R	4
005	Matt Barton	R	5
006	Jason Ridley	R	6
007	David Ralston	R	7
008	Norman Gunter	R	8
009	Will Wade	R	9
010	Victor Anderson	R	10
011	Rick Jasperse	R	11
012	James Lumsden	R	12
013	Katie Dempsey	R	13
014	Mitchell scoggins	R	14
015	Matthew Gambill	R	15
016	Trey Kelley	R	16
017	Martin Momtahan	R	17
018	Tyler Smith	R	18
019	Micah Gravley	R	67
019	Joseph Gullett	R	19
020	Charlice Byrd	R	20
021	Brad Thomas	R	21
021	Wes Cantrell	R	22
022	Ed Setzler	R	35
023	Mandi Ballinger	R	23
024	Sheri Gilligan	R	24
025	Todd Jones	R	25

User:

Plan Name: GA_House2021

Plan Type:

Districts & Their Incumbents

Districts & Their Incumbents

GA_House2021

District	Name	Party	Previous District
026	Lauren McDonald	R	26
027	Lee Hawkins	R	27
028			
029	Matt Dubnik	R	29
030			
031	Emory Dunahoo Jr	R	30
031	Thomas Benton	R	31
032	Chris Erwin	R	28
033	Alan Powell	R	32
034	Devan Seabaugh	R	34
035			
036	Ginny Ehrhart	R	36
037	Mary Frances Williams	D	37
038	David Wilkerson	D	38
039	Erica Thomas	D	39
040	Erick Allen	D	40
041	Michael Smith	D	41
042	Teri Anulewicz	D	42
043			
044	Donald Parsons	R	44
045	Sharon Cooper	R	43
045	Matthew Dollar	R	45
046	John Carson	R	46
047	Jan Jones	R	47
048	Mary Robichaux	D	48
049	Charles Martin	R	49
050	Angelika Kausche	D	50
051	Josh McLauren	D	51

User:

Plan Name: GA_House2021

Plan Type:

Districts & Their Incumbents

Districts & Their Incumbents

GA_House2021

District	Name	Party	Previous District
052	Shea Roberts	D	52
053			
054	Betsy Holland	D	54
055	Marie Metze	D	55
056	Mesha Mainor	D	56
057	Stacy Evans	D	57
058	Park Cannon	D	58
059			
060	Sheila Jones	D	53
061	Roger Bruce	D	61
062	William Boddie	D	62
062	David Dreyer	D	59
063	Kim Schofield	D	60
064			
065	Mandisha Thomas	D	65
066	Kimberly Alexander	D	66
067	Philip Singleton	R	71
068	Derrick Jackson	D	64
069	Debra Bazemore	D	63
070	Lynn Smith	R	70
071	James Collins	R	68
072	Randy Nix	R	69
073	Josh Bonner	R	72
074	Mathiak	R	73
075	Mike Glanton	D	75
076	Sandra Scott	D	76
077	Rhonda Burnough	D	77

User:

Plan Name: GA_House2021

Plan Type:

Districts & Their Incumbents

Districts & Their Incumbents

GA_House2021

District	Name	Party	Previous District
078	Demetrius Douglas	D	78
079	Yasmine Neal	D	74
080	Mike Wilensky	D	79
081	Scott Holcomb	D	81
082	Mary Margaret Oliver	D	82
083	Matthew Wilson	D	80
084	Renitta Shannon	D	84
085	Karla Drenner	D	85
086	Zulma Lopez	D	86
087	Viola Davis	D	87
088	Billy Mitchell	D	88
089	Becky Evans	D	83
090	Bee Nguyen	D	89
091	Angela Moore	D	90
092	Rhonda Taylor	D	91
093	Doreen Carter	D	92
094	Karen Bennett	D	94
095	Dar'shun Kendrick	D	93
096	Pedro Marin	D	96
097	Beth Moore	D	95
098	Marvin Lim	D	99
099			
100	Bonnie Rich	R	97
101	Gregg Kennard	D	102
102			
103	Timothy Barr	R	103
104	Chuck Efstrotation	R	104

User:

Plan Name: GA_House2021

Plan Type:

Districts & Their Incumbents

Districts & Their Incumbents

GA_House2021

District	Name	Party	Previous District
105	Donna McLeod	D	105
106	Rebecca Mitchell	D	106
106	Shelly Hutchinson	D	107
107	Sam Park	D	101
108	Jasmine Clark	D	108
109	Dewey McClain	D	100
110			
111	Tom Kirby	R	114
112	Bruce Williamson III	R	115
113	Sharon Henderson	D	113
114	Dave Belton	R	112
115	Regina Lewis-Ward	D	109
116	El-Mahdi Holly	D	111
117			
118	Clint Crowe	R	110
118	Susan Holmes	R	129
119	Terry England	R	116
120	Houston Gaines	R	117
121	Marcus Wiedower	R	119
122	Spencer Frye	D	118
123	Rob Leverett	R	33
124	Trey Rhodes	R	120
125	Barry Fleming	R	121
126	Gloria Frazier	D	126
127	Mark Newton	R	123
128	Mack Jackson	D	128
129	Wayne Howard	D	124

User:

Plan Name: GA_House2021

Plan Type:

Districts & Their Incumbents

Districts & Their Incumbents

GA_House2021

District	Name	Party	Previous District
130	Shelia Nelson	D	125
131	Jodi Lott	R	122
132	Brian Prince	D	127
133	Rick Williams	R	145
134	David Knight	R	130
135	Beth Camp	R	131
136	David Jenkins	R	132
137	Debbie Buckner	D	137
138	Vance Smith	R	133
139	Richard Smith	R	134
140	Calvin Smyre	D	135
141	Carolyn Hugley	D	136
142	Miriam Paris	D	142
143	James Beverly	D	143
144	Dale Washburn	R	141
145	Robert Dickey	R	140
146	Shaw Blackmon	R	146
147	Heath Clark	R	147
148	Noel Williams	R	148
149	Danny Mathis	R	144
149	Robert Pruitt	R	149
150	Patty Bentley	D	139
151	Mike Cheokas	R	138
152	Bill Yearta	R	152
153	CaMia Hopson-Jackson	D	153
154	Gerald Greene	R	151
154	Winfred Dukes	D	154

User:

Plan Name: GA_House2021

Plan Type:

Districts & Their Incumbents

Districts & Their Incumbents

GA_House2021

District	Name	Party	Previous District
155	Matt Hatchett	R	150
156	Leesa Hagan	R	156
157	William (Bill) Werkheiser	R	157
158	Larry (Butch) Parrish	R	158
159	Jon Burns	R	159
160	Jan Tankersley	R	160
161	Bill Hitchens	R	161
162	Carl Gilliard	D	162
163	Derek Mallow	D	163
164	Ron Stephens	R	164
165			
166	Jesse Petrea	R	166
167	Buddy Deloach	R	167
168	Al Williams	D	168
169	Clay Pirkle	R	155
170	Penny Houston	R	170
171	Joe Campbell	R	171
172	Sam Waston	R	172
173	Darlene Taylor	R	173
174	John Corbett	R	174
175	John LaHood	R	175
176	James Burchett	R	176
176	Dominic LaRiccia	R	169
177	Dexter Sharper	D	177
178	Steven Meeks	R	178
179	Don Hogan	R	179
180	Steven Sainz	R	180

User:

Plan Name: GA_House2021

Plan Type:

Districts & Their Incumbents

Districts & Their Incumbents

GA_House2021





District	Name	Party	Previous District
Number of Incumbents in District with more than one Incumbent:			20
Number of Districts with No Incumbent:			12 
Number of Districts with Incumbents of more than one party:			1 
Number of Districts with Paired Democrats:			2 
Number of Districts with Paired Republicans:			7 

Exhibit 6

User:

Plan Name: GA_House_ILLUSTRATIVE_REVIEW

Plan Type:

Population Summary

Population Summary

GA_House_ILLUSTRATIVE_REVIEW

District	Population	Deviation	% Devn.	[% Black]	[% 18+_AP_Bl]
001	59,039	-472	-0.79%	3.29%	3.47%
002	58,675	-836	-1.40%	2.9%	3.56%
003	58,630	-881	-1.48%	2.91%	3.38%
004	58,727	-784	-1.32%	4.95%	5.88%
005	60,386	875	1.47%	3.69%	4.4%
006	59,543	32	0.05%	1.11%	1.53%
007	59,081	-430	-0.72%	0.4%	0.62%
008	58,899	-612	-1.03%	1.11%	1.43%
009	58,881	-630	-1.06%	1.09%	1.61%
010	60,028	517	0.87%	2.37%	2.92%
011	60,160	649	1.09%	1.64%	2.04%
012	60,318	807	1.36%	11.65%	12.54%
013	60,389	878	1.48%	15.54%	15.71%
014	59,240	-271	-0.46%	7.22%	8.21%
015	60,106	595	1.00%	13.73%	14.05%
016	60,354	843	1.42%	16.36%	16.82%
017	60,388	877	1.47%	20.66%	21.13%
018	60,334	823	1.38%	7.31%	7.78%
019	60,357	846	1.42%	28.26%	28.56%
020	60,073	562	0.94%	9.53%	10.4%
021	60,072	561	0.94%	4.17%	4.73%
022	59,853	342	0.57%	7.56%	8.25%
023	59,678	167	0.28%	7.29%	8.06%
024	59,040	-471	-0.79%	4.53%	5.11%
025	58,971	-540	-0.91%	4.03%	4.6%
026	59,842	331	0.56%	3.4%	3.93%

User:

Plan Name: GA_House_ILLUSTRATIVE_REVIEW

Plan Type:

Population Summary

Population Summary

GA_House_ILLUSTRATIVE_REVIEW

District	Population	Deviation	% Devn.	[% Black]	[% 18+_AP_Bl]
027	58,790	-721	-1.21%	4.29%	4.81%
028	60,036	525	0.88%	3.44%	3.82%
029	59,510	-1	0.00%	12.13%	13.07%
030	59,003	-508	-0.85%	6.84%	7.53%
031	59,174	-337	-0.57%	7.2%	7.87%
032	60,198	687	1.15%	6.55%	7.2%
033	59,187	-324	-0.54%	11.02%	11.2%
034	60,241	730	1.23%	12.54%	13.22%
035	60,325	814	1.37%	24.52%	25.45%
036	59,989	478	0.80%	35.64%	36.2%
037	59,602	91	0.15%	21.53%	22.97%
038	59,314	-197	-0.33%	56.08%	57.25%
039	60,320	809	1.36%	52.01%	54.49%
040	60,319	808	1.36%	31.32%	33.23%
041	60,349	838	1.41%	34.35%	36.71%
042	60,360	849	1.43%	28.61%	30.17%
043	59,328	-183	-0.31%	32.65%	34.74%
044	60,357	846	1.42%	20.07%	21.67%
045	60,141	630	1.06%	4.63%	5.66%
046	60,371	860	1.45%	7.55%	8.73%
047	60,126	615	1.03%	9.73%	11.12%
048	58,872	-639	-1.07%	10.13%	11.41%
049	59,197	-314	-0.53%	9.64%	10.89%
050	58,866	-645	-1.08%	11.18%	12.27%
051	59,304	-207	-0.35%	13.23%	14.46%
052	59,572	61	0.10%	11.76%	13.92%

User:

Plan Name: GA_House_ILLUSTRATIVE_REVIEW

Plan Type:

Population Summary

Population Summary

GA_House_ILLUSTRATIVE_REVIEW

District	Population	Deviation	% Devn.	[% Black]	[% 18+_AP_Blk]
053	59,669	158	0.27%	24.97%	26.48%
054	60,013	502	0.84%	10.47%	12.65%
055	59,294	-217	-0.36%	25.98%	28.95%
056	59,224	-287	-0.48%	16.19%	18.45%
057	58,918	-593	-1.00%	13.34%	15.17%
058	58,922	-589	-0.99%	39.34%	40.07%
059	59,625	114	0.19%	86.91%	88.59%
060	59,633	122	0.21%	89.76%	92.09%
061	58,830	-681	-1.14%	93.34%	95.58%
062	59,299	-212	-0.36%	79.5%	81.61%
063	59,690	179	0.30%	63.68%	63.8%
064	59,968	457	0.77%	40.51%	40.97%
065	59,986	475	0.80%	28.76%	28.53%
066	58,957	-554	-0.93%	53.39%	53.91%
067	59,307	-204	-0.34%	77.38%	78.57%
068	59,614	103	0.17%	90.58%	92.87%
069	59,231	-280	-0.47%	41.17%	42.05%
070	60,267	756	1.27%	17.6%	18.37%
071	58,881	-630	-1.06%	19.56%	20.8%
072	58,670	-841	-1.41%	37.81%	37.29%
073	59,254	-257	-0.43%	9.95%	10.94%
074	59,963	452	0.76%	8.63%	9.27%
075	59,928	417	0.70%	64.7%	66.18%
076	58,668	-843	-1.42%	69.01%	71.31%
077	58,671	-840	-1.41%	60.49%	62.59%
078	60,019	508	0.85%	77.06%	78.91%

User:

Plan Name: GA_House_ILLUSTRATIVE_REVIEW

Plan Type:

Population Summary

Population Summary

GA_House_ILLUSTRATIVE_REVIEW

District	Population	Deviation	% Devn.	[% Black]	[% 18+_AP_Bl]
079	60,309	798	1.34%	77.89%	80.7%
080	59,933	422	0.71%	13.61%	16.08%
081	60,139	628	1.06%	34.86%	36.63%
082	59,079	-432	-0.73%	12.62%	14.69%
083	59,661	150	0.25%	12.08%	14.64%
084	60,268	757	1.27%	34.91%	37.57%
085	59,929	418	0.70%	36.5%	36.26%
086	60,015	504	0.85%	66.16%	67.91%
087	60,376	865	1.45%	88.28%	91.28%
088	60,242	731	1.23%	83.43%	85.98%
089	59,362	-149	-0.25%	75.65%	76.56%
090	58,792	-719	-1.21%	92.2%	94.92%
091	59,992	481	0.81%	42.22%	43.09%
092	58,715	-796	-1.34%	91.67%	94.27%
093	58,635	-876	-1.47%	57.41%	58.17%
094	60,224	713	1.20%	59.67%	61.24%
095	58,739	-772	-1.30%	43.53%	43.45%
096	59,287	-224	-0.38%	20.8%	21.42%
097	60,328	817	1.37%	21.52%	23.4%
098	60,026	515	0.87%	18.83%	21.75%
099	58,882	-629	-1.06%	17.42%	18.56%
100	60,255	744	1.25%	13.98%	15.26%
101	60,170	659	1.11%	22.22%	23.05%
102	59,249	-262	-0.44%	33.78%	34.33%
103	59,928	417	0.70%	17.3%	18.13%
104	59,858	347	0.58%	5.41%	6.12%

User:

Plan Name: GA_House_ILLUSTRATIVE_REVIEW

Plan Type:

Population Summary

Population Summary

GA_House_ILLUSTRATIVE_REVIEW

District	Population	Deviation	% Devn.	[% Black]	[% 18+_AP_Bl]
105	60,075	564	0.95%	28.24%	29.38%
106	60,181	670	1.13%	28.24%	28.14%
107	58,904	-607	-1.02%	30.44%	32.38%
108	59,834	323	0.54%	19.74%	20.58%
109	60,208	697	1.17%	23.12%	25.26%
110	59,656	145	0.24%	46.56%	47.15%
111	59,855	344	0.58%	37.3%	38.34%
112	59,633	122	0.21%	17.22%	17.35%
113	60,262	751	1.26%	55.35%	55.9%
114	58,946	-565	-0.95%	35.91%	36.86%
115	60,264	753	1.27%	57.03%	57.4%
116	60,094	583	0.98%	58.91%	59.79%
117	60,362	851	1.43%	38.15%	38.84%
118	60,119	608	1.02%	22.32%	23.18%
119	58,945	-566	-0.95%	15.14%	16.01%
120	58,997	-514	-0.86%	20.7%	19.46%
121	58,806	-705	-1.18%	9.04%	10.1%
122	59,178	-333	-0.56%	27.97%	26.17%
123	58,636	-875	-1.47%	24.84%	25.25%
124	59,134	-377	-0.63%	32.08%	31.77%
125	59,211	-300	-0.50%	32.05%	32.78%
126	59,857	346	0.58%	44.6%	44.47%
127	59,739	228	0.38%	14.07%	14.9%
128	59,625	114	0.19%	44.85%	44.81%
129	58,968	-543	-0.91%	41.19%	41.23%
130	59,163	-348	-0.58%	67.97%	66.68%

User:

Plan Name: GA_House_ILLUSTRATIVE_REVIEW

Plan Type:

Population Summary

Population Summary

GA_House_ILLUSTRATIVE_REVIEW

District	Population	Deviation	% Devn.	[% Black]	[% 18+_AP_Bl]
131	58,692	-819	-1.38%	16.38%	18.08%
132	58,996	-515	-0.87%	62.06%	61.99%
133	59,696	185	0.31%	37.66%	36.75%
134	58,624	-887	-1.49%	36.5%	35.36%
135	58,719	-792	-1.33%	19.78%	20.58%
136	59,465	-46	-0.08%	17.01%	18.1%
137	59,317	-194	-0.33%	22.17%	23.23%
138	59,265	-246	-0.41%	21.27%	21.82%
139	59,725	214	0.36%	37.2%	39.01%
140	60,117	606	1.02%	53.03%	52.97%
141	58,852	-659	-1.11%	68.61%	69.34%
142	59,710	199	0.33%	62.64%	61.25%
143	60,111	600	1.01%	44.46%	43.12%
144	58,959	-552	-0.93%	27%	27.5%
145	59,307	-204	-0.34%	41.99%	41.36%
146	58,750	-761	-1.28%	26.52%	26.7%
147	60,350	839	1.41%	27.6%	28.18%
148	59,705	194	0.33%	35.32%	35.74%
149	59,760	249	0.42%	44.18%	44.44%
150	60,090	579	0.97%	40.85%	42.06%
151	58,665	-846	-1.42%	51.71%	50.4%
152	58,793	-718	-1.21%	37.41%	37.05%
153	60,160	649	1.09%	75.41%	74.8%
154	59,053	-458	-0.77%	45.26%	44.59%
155	59,636	125	0.21%	35.26%	35.15%
156	58,668	-843	-1.42%	25.4%	25.02%

User:

Plan Name: GA_House_ILLUSTRATIVE_REVIEW

Plan Type:

Population Summary

Population Summary

GA_House_ILLUSTRATIVE_REVIEW

District	Population	Deviation	% Devn.	[% Black]	[% 18+_AP_Blk]
157	58,631	-880	-1.48%	19.08%	19.59%
158	58,693	-818	-1.37%	34.23%	33.26%
159	59,312	-199	-0.33%	31.56%	31.62%
160	58,625	-886	-1.49%	13.28%	14.45%
161	59,485	-26	-0.04%	13.29%	13.96%
162	58,800	-711	-1.19%	40.09%	39.39%
163	58,995	-516	-0.87%	43.85%	43.81%
164	58,702	-809	-1.36%	33.33%	33.72%
165	59,846	335	0.56%	57.18%	53.94%
166	58,948	-563	-0.95%	10.32%	10.68%
167	58,650	-861	-1.45%	26.55%	27.41%
168	58,674	-837	-1.41%	43.59%	45.79%
169	60,016	505	0.85%	30.04%	29.38%
170	59,948	437	0.73%	17.43%	17.77%
171	58,992	-519	-0.87%	34.78%	34.59%
172	60,286	775	1.30%	24.89%	24.67%
173	58,710	-801	-1.35%	35.97%	35.39%
174	59,215	-296	-0.50%	26.2%	26.06%
175	58,647	-864	-1.45%	23.31%	23.71%
176	59,479	-32	-0.05%	28.69%	29.29%
177	59,604	93	0.16%	51.61%	50.36%
178	58,721	-790	-1.33%	9.1%	9.49%
179	58,871	-640	-1.08%	28.73%	27.08%
180	59,412	-99	-0.17%	17.31%	18.21%

Total Population: 10,711,908

User:

Plan Name: GA_House_ILLUSTRATIVE_REVIEW

Plan Type:

Population Summary

Population Summary

GA_House_ILLUSTRATIVE_REVIEW

District	Population	Deviation	% Devn.	[% Black]	[% 18+_AP_Bl]
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Ideal District Population: 59,511

Summary Statistics:

Population Range:	58,624 to 60,389
Ratio Range:	0.03
Absolute Range:	-887 to 878
Absolute Overall Range:	1765
Relative Range:	-1.49% to 1.48%
Relative Overall Range:	2.97%
Absolute Mean Deviation:	525.27
Relative Mean Deviation:	0.88%
Standard Deviation:	584.15

Exhibit 7

User:

Plan Name: GA_House_ILLUSTRATIVE

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House_ILLUSTRATIVE

Number of subdivisions not split:

County	105
Voting District	2,592

Number of subdivisions split into more than one district:

County	54
Voting District	106

Number of splits involving no population:

County	0
Voting District	5

Split Counts

County

- Cases where an area is split among 2 Districts: 30
- Cases where an area is split among 3 Districts: 9
- Cases where an area is split among 4 Districts: 6
- Cases where an area is split among 5 Districts: 4
- Cases where an area is split among 6 Districts: 1
- Cases where an area is split among 13 Districts: 1
- Cases where an area is split among 14 Districts: 1
- Cases where an area is split among 16 Districts: 1
- Cases where an area is split among 19 Districts: 1

Voting District

- Cases where an area is split among 2 Districts: 103
- Cases where an area is split among 3 Districts: 3

County	Voting District	District	Population
<i>Split Counties:</i>			
Barrow GA		104	24,560
Barrow GA		119	58,945
Bartow GA		014	59,240

User:

Plan Name: GA_House_ILLUSTRATIVE

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House_ILLUSTRATIVE

Bartow GA	015	49,661
Bibb GA	142	59,710
Bibb GA	143	60,111
Bibb GA	144	12,502
Bibb GA	149	25,023
Bulloch GA	158	58,693
Bulloch GA	159	8,519
Bulloch GA	160	13,887
Carroll GA	070	60,267
Carroll GA	071	58,881
Catoosa GA	002	9,242
Catoosa GA	003	58,630
Chatham GA	162	58,800
Chatham GA	163	58,995
Chatham GA	164	58,702
Chatham GA	165	59,846
Chatham GA	166	58,948
Cherokee GA	011	26,944
Cherokee GA	020	60,073
Cherokee GA	021	60,072
Cherokee GA	022	59,853
Cherokee GA	023	59,678
Clarke GA	120	58,997
Clarke GA	121	10,496
Clarke GA	122	59,178
Clayton GA	075	59,928
Clayton GA	076	58,668
Clayton GA	077	58,671
Clayton GA	078	60,019
Clayton GA	079	60,309
Cobb GA	015	10,445

User:

Plan Name: GA_House_ILLUSTRATIVE

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House_ILLUSTRATIVE

Cobb GA	034	60,241
Cobb GA	035	60,325
Cobb GA	036	59,989
Cobb GA	037	59,602
Cobb GA	038	34,002
Cobb GA	039	60,320
Cobb GA	040	60,319
Cobb GA	041	60,349
Cobb GA	042	60,360
Cobb GA	043	59,328
Cobb GA	044	60,357
Cobb GA	045	60,141
Cobb GA	046	60,371
Colquitt GA	170	6,396
Colquitt GA	172	39,502
Columbia GA	125	37,579
Columbia GA	127	59,739
Columbia GA	131	58,692
Coweta GA	065	59,986
Coweta GA	073	59,254
Coweta GA	136	26,918
Crisp GA	148	2,612
Crisp GA	151	17,516
Dawson GA	007	2,409
Dawson GA	009	24,389
DeKalb GA	052	59,572
DeKalb GA	080	59,933
DeKalb GA	081	60,139
DeKalb GA	082	47,378
DeKalb GA	083	59,661
DeKalb GA	084	60,268

User:

Plan Name: GA_House_ILLUSTRATIVE

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House_ILLUSTRATIVE

DeKalb GA	085	59,929
DeKalb GA	086	60,015
DeKalb GA	087	60,376
DeKalb GA	088	60,242
DeKalb GA	089	59,362
DeKalb GA	090	58,792
DeKalb GA	092	58,715
Dougherty GA	152	25,630
Dougherty GA	153	60,160
Douglas GA	038	25,312
Douglas GA	064	59,968
Douglas GA	066	58,957
Effingham GA	159	5,284
Effingham GA	161	59,485
Fayette GA	069	59,231
Fayette GA	074	59,963
Floyd GA	005	2,842
Floyd GA	012	35,353
Floyd GA	013	60,389
Forsyth GA	024	59,040
Forsyth GA	025	58,971
Forsyth GA	026	59,842
Forsyth GA	028	60,036
Forsyth GA	047	13,394
Fulton GA	047	46,732
Fulton GA	048	58,872
Fulton GA	049	59,197
Fulton GA	050	58,866
Fulton GA	051	59,304
Fulton GA	053	59,669
Fulton GA	054	60,013

User:

Plan Name: GA_House_ILLUSTRATIVE

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House_ILLUSTRATIVE

Fulton GA	055	59,294
Fulton GA	056	59,224
Fulton GA	057	58,918
Fulton GA	058	58,922
Fulton GA	059	59,625
Fulton GA	060	59,633
Fulton GA	061	58,830
Fulton GA	062	59,299
Fulton GA	063	59,690
Fulton GA	067	59,307
Fulton GA	068	59,614
Fulton GA	082	11,701
Glynn GA	178	20,984
Glynn GA	179	58,871
Glynn GA	180	4,644
Gwinnett GA	094	60,224
Gwinnett GA	096	59,287
Gwinnett GA	097	60,328
Gwinnett GA	098	60,026
Gwinnett GA	099	58,882
Gwinnett GA	100	60,255
Gwinnett GA	101	60,170
Gwinnett GA	102	59,249
Gwinnett GA	103	59,928
Gwinnett GA	105	60,075
Gwinnett GA	106	60,181
Gwinnett GA	107	58,904
Gwinnett GA	108	59,834
Gwinnett GA	109	60,208
Gwinnett GA	110	59,656
Gwinnett GA	111	59,855

User:

Plan Name: GA_House_ILLUSTRATIVE

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House_ILLUSTRATIVE

Habersham GA	010	30,652
Habersham GA	032	15,379
Hall GA	008	6,264
Hall GA	009	1,004
Hall GA	027	58,790
Hall GA	029	59,510
Hall GA	030	59,003
Hall GA	104	18,565
Henry GA	091	59,992
Henry GA	115	60,264
Henry GA	116	60,094
Henry GA	117	60,362
Houston GA	145	59,307
Houston GA	146	36,312
Houston GA	147	60,350
Houston GA	150	7,664
Jackson GA	031	59,174
Jackson GA	104	16,733
Jeff Davis GA	157	10,869
Jeff Davis GA	176	3,910
Jefferson GA	126	5,781
Jefferson GA	128	9,928
Jones GA	133	1,632
Jones GA	149	26,715
Laurens GA	128	12,421
Laurens GA	155	37,149
Liberty GA	167	6,582
Liberty GA	168	58,674
Lowndes GA	175	58,647
Lowndes GA	177	59,604
Madison GA	033	9,935

User:

Plan Name: GA_House_ILLUSTRATIVE

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House_ILLUSTRATIVE

Madison GA	123	20,185
Meriwether GA	136	12,453
Meriwether GA	137	8,160
Muscogee GA	138	59,265
Muscogee GA	139	28,688
Muscogee GA	140	60,117
Muscogee GA	141	58,852
Newton GA	113	60,262
Newton GA	114	52,221
Paulding GA	016	47,916
Paulding GA	017	60,388
Paulding GA	019	60,357
Polk GA	016	12,438
Polk GA	018	30,415
Putnam GA	124	16,659
Putnam GA	133	5,388
Richmond GA	126	29,480
Richmond GA	129	58,968
Richmond GA	130	59,163
Richmond GA	132	58,996
Rockdale GA	093	58,635
Rockdale GA	095	34,935
Spalding GA	134	58,624
Spalding GA	136	8,682
Tattnall GA	156	9,883
Tattnall GA	157	12,959
Thomas GA	171	3,389
Thomas GA	173	42,409
Troup GA	072	58,670
Troup GA	137	10,756
Walker GA	001	42,788

User:

Plan Name: GA_House_ILLUSTRATIVE

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House_ILLUSTRATIVE

Walker GA		002	24,866
Walton GA		095	23,804
Walton GA		112	59,633
Walton GA		114	6,725
Walton GA		121	6,511
Wayne GA		157	5,219
Wayne GA		167	24,925
Whitfield GA		002	24,567
Whitfield GA		004	58,727
Whitfield GA		006	19,570
<i>Split VTDs:</i>			
Barrow GA	15	104	4,288
Barrow GA	15	119	639
Bartow GA	CASSVILLE	014	16,566
Bartow GA	CASSVILLE	015	39
Bartow GA	MISSION ROAD	014	5,753
Bartow GA	MISSION ROAD	015	7
Bartow GA	WHITE	014	3,546
Bartow GA	WHITE	015	0
Bartow GA	WOODLAND HIGH	014	2,580
Bartow GA	WOODLAND HIGH	015	25
Bibb GA	GODFREY 1	142	8,749
Bibb GA	GODFREY 1	143	2,185
Bibb GA	HOWARD 1	143	2,433
Bibb GA	HOWARD 1	144	3,510
Bulloch GA	EMIT	158	4,846
Bulloch GA	EMIT	160	718
Carroll GA	BETHANY	070	6,586
Carroll GA	BETHANY	071	0
Carroll GA	BONNER	070	12

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Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House_ILLUSTRATIVE

Carroll GA	BONNER	071	5,952
Catoosa GA	POPLAR SPRINGS	002	1,569
Catoosa GA	POPLAR SPRINGS	003	4,254
Cherokee GA	ARNOLD MILL	020	3,220
Cherokee GA	ARNOLD MILL	021	3,319
Clarke GA	4B	120	5,306
Clarke GA	4B	122	7,365
Clayton GA	JONESBORO 3	075	3,279
Clayton GA	JONESBORO 3	078	2,683
Clayton GA	LAKE CITY	076	3,510
Clayton GA	LAKE CITY	077	2,250
Clayton GA	LOVEJOY 1	075	2,162
Clayton GA	LOVEJOY 1	078	3,457
Cobb GA	Acworth 1A	015	167
Cobb GA	Acworth 1A	035	7,322
Cobb GA	Austell 1A	038	5,988
Cobb GA	Austell 1A	039	1,662
Cobb GA	Baker 01	035	141
Cobb GA	Baker 01	044	7,081
Cobb GA	Big Shanty 01	035	1,335
Cobb GA	Big Shanty 01	044	2,262
Cobb GA	Big Shanty 02	035	0
Cobb GA	Big Shanty 02	044	4,109
Cobb GA	Chalker 01	035	0
Cobb GA	Chalker 01	044	11,190
Cobb GA	Dobbins 01	040	489
Cobb GA	Dobbins 01	042	4,335
Cobb GA	Dobbins 01	043	8,577
Cobb GA	Eastside 02	037	3,515
Cobb GA	Eastside 02	045	1,686
Cobb GA	Elizabeth 01	034	1,882

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Plan Name: GA_House_ILLUSTRATIVE

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Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House_ILLUSTRATIVE

Cobb GA	Elizabeth 01	037	3,988
Cobb GA	Hayes 01	034	4,655
Cobb GA	Hayes 01	035	307
Cobb GA	Lindley 01	039	4,040
Cobb GA	Lindley 01	040	2,220
Cobb GA	Mableton 03	039	4,044
Cobb GA	Mableton 03	040	25
Cobb GA	Marietta 4C	034	2,494
Cobb GA	Marietta 4C	043	697
Cobb GA	Marietta 5A	037	1,457
Cobb GA	Marietta 5A	043	2,877
Cobb GA	Mount Bethel 04	042	2,827
Cobb GA	Mount Bethel 04	045	951
Cobb GA	Nickajack 01	040	18
Cobb GA	Nickajack 01	042	6,108
Cobb GA	Norton Park 01	040	46
Cobb GA	Norton Park 01	041	7,755
Cobb GA	Oregon 03	041	6,053
Cobb GA	Oregon 03	043	6,935
Cobb GA	Pine Mountain 02	034	3,873
Cobb GA	Pine Mountain 02	035	103
Cobb GA	Powder Springs 2a	036	759
Cobb GA	Powder Springs 2a	038	4,255
Cobb GA	Powers Ferry 01	037	4,963
Cobb GA	Powers Ferry 01	043	464
Cobb GA	Roswell 01	045	3,749
Cobb GA	Roswell 01	046	3,083
Cobb GA	Sewell Mill 03	037	6,598
Cobb GA	Sewell Mill 03	043	339
Cobb GA	Smyrna 1A	040	3,868
Cobb GA	Smyrna 1A	042	2,765

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Plan Name: GA_House_ILLUSTRATIVE

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House_ILLUSTRATIVE

Cobb GA	Terrell Mill 01	037	4,720
Cobb GA	Terrell Mill 01	043	5,091
Colquitt GA	LEE	170	1,525
Colquitt GA	LEE	172	974
Coweta GA	TURIN	073	2,296
Coweta GA	TURIN	136	3,829
DeKalb GA	Avondale High	084	2,494
DeKalb GA	Avondale High	086	1,356
DeKalb GA	Browns Mill Elem	090	1,893
DeKalb GA	Browns Mill Elem	092	2,815
DeKalb GA	Candler	084	2,055
DeKalb GA	Candler	089	2,007
DeKalb GA	Clairmont Road	082	1,391
DeKalb GA	Clairmont Road	085	3,134
DeKalb GA	Dresden Elem (CHA)	080	8,233
DeKalb GA	Dresden Elem (CHA)	083	4,856
DeKalb GA	Indian Creek	085	3,180
DeKalb GA	Indian Creek	086	3,449
DeKalb GA	Rockbridge Elem	086	5,350
DeKalb GA	Rockbridge Elem	088	39
DeKalb GA	Scott	082	2
DeKalb GA	Scott	085	3,914
DeKalb GA	Stone Mill Elem	081	1,677
DeKalb GA	Stone Mill Elem	088	4,255
DeKalb GA	Stoneview Elem	087	3,045
DeKalb GA	Stoneview Elem	092	690
Floyd GA	ARMUCHEE	012	1,658
Floyd GA	ARMUCHEE	013	439
Floyd GA	WATTERS	005	2,842
Floyd GA	WATTERS	013	2,257
Forsyth GA	BROWNS BRIDGE	026	11,013

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Plan Name: GA_House_ILLUSTRATIVE

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Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House_ILLUSTRATIVE

Forsyth GA	BROWNS BRIDGE	028	1,904
Forsyth GA	OTWELL	024	4,187
Forsyth GA	OTWELL	026	14,273
Forsyth GA	POLO	024	24,427
Forsyth GA	POLO	025	950
Forsyth GA	POLO	026	481
Fulton GA	02L1	057	6,106
Fulton GA	02L1	058	3,336
Fulton GA	JC12	050	759
Fulton GA	JC12	051	2,742
Fulton GA	JC15	048	0
Fulton GA	JC15	051	1,457
Fulton GA	SC05B	061	2,953
Fulton GA	SC05B	068	1,600
Fulton GA	SC05E	061	718
Fulton GA	SC05E	068	108
Glynn GA	SE BAPTIST BLDG	178	485
Glynn GA	SE BAPTIST BLDG	179	2,537
Gwinnett GA	BAYCREEK I	102	1,612
Gwinnett GA	BAYCREEK I	111	7,221
Gwinnett GA	BAYCREEK J	106	1,861
Gwinnett GA	BAYCREEK J	110	4,344
Gwinnett GA	BERKSHIRE F	108	3,034
Gwinnett GA	BERKSHIRE F	109	1,369
Gwinnett GA	BERKSHIRE O	106	2,005
Gwinnett GA	BERKSHIRE O	108	1,693
Gwinnett GA	CATES H	094	3,023
Gwinnett GA	CATES H	106	3,241
Gwinnett GA	DULUTH F	096	2,711
Gwinnett GA	DULUTH F	099	4,534
Gwinnett GA	DULUTH F	101	5,149

User:

Plan Name: GA_House_ILLUSTRATIVE

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House_ILLUSTRATIVE

Gwinnett GA	DULUTH I	096	5,260
Gwinnett GA	DULUTH I	099	1,744
Gwinnett GA	GOODWINS F	099	1,615
Gwinnett GA	GOODWINS F	101	3,003
Gwinnett GA	LAWRENCEVILLE F	102	1,298
Gwinnett GA	LAWRENCEVILLE F	111	4,699
Gwinnett GA	LAWRENCEVILLE H	101	1,505
Gwinnett GA	LAWRENCEVILLE H	105	4,370
Gwinnett GA	LAWRENCEVILLE M	102	780
Gwinnett GA	LAWRENCEVILLE M	105	11,221
Gwinnett GA	MARTINS B	102	2,334
Gwinnett GA	MARTINS B	107	3,054
Gwinnett GA	PINKCNEYVILLE A	097	7,050
Gwinnett GA	PINKCNEYVILLE A	098	162
Gwinnett GA	PUCKETTS A	100	983
Gwinnett GA	PUCKETTS A	103	7,071
Gwinnett GA	PUCKETTS B	100	967
Gwinnett GA	PUCKETTS B	103	3,519
Habersham GA	MUD CREEK	010	8,120
Habersham GA	MUD CREEK	032	309
Hall GA	BARK CAMP	009	1,004
Hall GA	BARK CAMP	027	7,133
Hall GA	FRIENDSHIP II	030	2,142
Hall GA	FRIENDSHIP II	104	2,278
Hall GA	QUILLIANS	008	1,457
Hall GA	QUILLIANS	027	2,469
Henry GA	COTTON INDIAN	091	6,528
Henry GA	COTTON INDIAN	116	683
Henry GA	HICKORY FLAT	091	1,954
Henry GA	HICKORY FLAT	116	5,198
Henry GA	LOWES	115	6,544

User:

Plan Name: GA_House_ILLUSTRATIVE

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House_ILLUSTRATIVE

Henry GA	LOWES	117	7,377
Houston GA	CGTC	146	1,404
Houston GA	CGTC	147	5,845
Houston GA	MCMS	147	5,830
Houston GA	MCMS	150	7,664
Houston GA	TMS	145	940
Houston GA	TMS	147	8,178
Jackson GA	West Jackson	031	4,134
Jackson GA	West Jackson	104	16,733
Jones GA	POPE	133	1,632
Jones GA	POPE	149	844
Liberty GA	HINESVILLE LODGE 271	167	332
Liberty GA	HINESVILLE LODGE 271	168	4,535
Lowndes GA	RAINWATER	175	8,231
Lowndes GA	RAINWATER	177	6,923
Muscogee GA	GENTIAN/REESE @LDS	138	2,092
Muscogee GA	GENTIAN/REESE @LDS	141	7,409
Muscogee GA	OUR LADY OF LOURDES	139	11,384
Muscogee GA	OUR LADY OF LOURDES	140	2,392
Newton GA	CEDAR SHOALS	113	4,657
Newton GA	CEDAR SHOALS	114	236
Paulding GA	BURNT HICKORY PARK	016	8,012
Paulding GA	BURNT HICKORY PARK	017	396
Paulding GA	NEBO ELEMENTARY SCH	017	5,336
Paulding GA	NEBO ELEMENTARY SCH	019	8,660
Polk GA	ROCKMART	016	7,214
Polk GA	ROCKMART	018	2,260
Richmond GA	306	129	4,950
Richmond GA	306	132	1,693
Richmond GA	601	126	6,281
Richmond GA	601	132	447

User:

Plan Name: GA_House_ILLUSTRATIVE

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_House_ILLUSTRATIVE

Rockdale GA	FLAT SHOALS	093	5,131
Rockdale GA	FLAT SHOALS	095	5
Rockdale GA	ROCKDALE	093	5,457
Rockdale GA	ROCKDALE	095	840
Tattnall GA	SHILOH	156	1,915
Tattnall GA	SHILOH	157	3,161
Troup GA	MOUNTVILLE	072	189
Troup GA	MOUNTVILLE	137	2,376
Whitfield GA	2A	002	358
Whitfield GA	2A	004	4,506

Exhibit 8

User:

Plan Name: GA_House_ILLUSTRATIVE

Plan Type:

Measures of Compactness Report

Measures of Compactness Report

GA_House_ILLUSTRATIVE

	Reock	Polsby-Popper
Sum	N/A	N/A
Min	0.21	0.12
Max	0.70	0.62
Mean	0.45	0.33
Std. Dev.	0.09	0.10
District	Reock	Polsby-Popper
001	0.53	0.51
002	0.57	0.29
003	0.49	0.42
004	0.53	0.25
005	0.48	0.39
006	0.53	0.32
007	0.62	0.50
008	0.37	0.24
009	0.46	0.43
010	0.35	0.25
011	0.65	0.47
012	0.54	0.39
013	0.39	0.27
014	0.44	0.20

User:

Plan Name: GA_House_ILLUSTRATIVE

Plan Type:

Measures of Compactness Report

Measures of Compactness Report

GA_House_ILLUSTRATIVE

015	0.35	0.14
016	0.33	0.28
017	0.59	0.38
018	0.61	0.51
019	0.42	0.32
020	0.38	0.37
021	0.31	0.33
022	0.44	0.35
023	0.46	0.25
024	0.67	0.62
025	0.47	0.42
026	0.38	0.27
027	0.48	0.20
028	0.34	0.34
029	0.42	0.20
030	0.33	0.28
031	0.64	0.58
032	0.49	0.34
033	0.49	0.37

User:

Plan Name: GA_House_ILLUSTRATIVE

Plan Type:

Measures of Compactness Report

Measures of Compactness Report

GA_House_ILLUSTRATIVE

034	0.42	0.21
035	0.34	0.12
036	0.40	0.39
037	0.41	0.24
038	0.46	0.29
039	0.64	0.44
040	0.40	0.15
041	0.58	0.24
042	0.23	0.24
043	0.45	0.29
044	0.44	0.22
045	0.58	0.44
046	0.51	0.46
047	0.50	0.21
048	0.49	0.18
049	0.51	0.23
050	0.41	0.37
051	0.42	0.31
052	0.43	0.38

User:

Plan Name: GA_House_ILLUSTRATIVE

Plan Type:

Measures of Compactness Report

Measures of Compactness Report

GA_House_ILLUSTRATIVE

053	0.33	0.25
054	0.62	0.50
055	0.43	0.36
056	0.44	0.51
057	0.43	0.49
058	0.57	0.32
059	0.41	0.36
060	0.70	0.43
061	0.42	0.27
062	0.46	0.26
063	0.46	0.49
064	0.46	0.36
065	0.54	0.44
066	0.40	0.31
067	0.46	0.47
068	0.48	0.36
069	0.53	0.44
070	0.37	0.17
071	0.58	0.29

User:

Plan Name: GA_House_ILLUSTRATIVE

Plan Type:

Measures of Compactness Report

Measures of Compactness Report

GA_House_ILLUSTRATIVE

072	0.41	0.49
073	0.54	0.38
074	0.35	0.27
075	0.52	0.36
076	0.52	0.41
077	0.42	0.35
078	0.30	0.21
079	0.56	0.36
080	0.43	0.25
081	0.39	0.41
082	0.36	0.37
083	0.38	0.36
084	0.37	0.23
085	0.54	0.36
086	0.44	0.31
087	0.38	0.28
088	0.41	0.39
089	0.42	0.39
090	0.40	0.40

User:

Plan Name: GA_House_ILLUSTRATIVE

Plan Type:

Measures of Compactness Report

Measures of Compactness Report

GA_House_ILLUSTRATIVE

091	0.21	0.18
092	0.51	0.37
093	0.47	0.20
094	0.52	0.47
095	0.32	0.30
096	0.59	0.49
097	0.61	0.38
098	0.43	0.45
099	0.45	0.25
100	0.51	0.34
101	0.39	0.45
102	0.63	0.41
103	0.36	0.34
104	0.50	0.26
105	0.52	0.30
106	0.46	0.26
107	0.48	0.29
108	0.49	0.33
109	0.38	0.38

User:

Plan Name: GA_House_ILLUSTRATIVE

Plan Type:

Measures of Compactness Report

Measures of Compactness Report

GA_House_ILLUSTRATIVE

110	0.41	0.35
111	0.53	0.44
112	0.59	0.42
113	0.47	0.41
114	0.37	0.22
115	0.45	0.38
116	0.49	0.37
117	0.26	0.24
118	0.37	0.30
119	0.53	0.40
120	0.43	0.32
121	0.56	0.31
122	0.45	0.37
123	0.38	0.20
124	0.41	0.24
125	0.45	0.37
126	0.42	0.28
127	0.37	0.37
128	0.40	0.25

User:

Plan Name: GA_House_ILLUSTRATIVE

Plan Type:

Measures of Compactness Report

Measures of Compactness Report

GA_House_ILLUSTRATIVE

129	0.48	0.43
130	0.53	0.33
131	0.54	0.42
132	0.44	0.36
133	0.44	0.36
134	0.48	0.33
135	0.34	0.26
136	0.30	0.22
137	0.53	0.37
138	0.42	0.47
139	0.45	0.25
140	0.45	0.54
141	0.39	0.47
142	0.40	0.26
143	0.46	0.47
144	0.54	0.49
145	0.42	0.30
146	0.53	0.30
147	0.26	0.22

User:

Plan Name: GA_House_ILLUSTRATIVE

Plan Type:

Measures of Compactness Report

Measures of Compactness Report

GA_House_ILLUSTRATIVE

148	0.41	0.20
149	0.37	0.30
150	0.45	0.28
151	0.40	0.22
152	0.34	0.31
153	0.36	0.42
154	0.42	0.35
155	0.45	0.40
156	0.50	0.33
157	0.45	0.25
158	0.44	0.33
159	0.39	0.22
160	0.24	0.16
161	0.37	0.20
162	0.31	0.18
163	0.27	0.16
164	0.56	0.25
165	0.35	0.22
166	0.67	0.53

User:

Plan Name: GA_House_ILLUSTRATIVE

Plan Type:

Measures of Compactness Report

Measures of Compactness Report

GA_House_ILLUSTRATIVE

167	0.46	0.25
168	0.25	0.24
169	0.47	0.39
170	0.39	0.32
171	0.46	0.51
172	0.37	0.37
173	0.50	0.35
174	0.51	0.31
175	0.49	0.16
176	0.47	0.36
177	0.32	0.26
178	0.38	0.29
179	0.45	0.42
180	0.61	0.40

Measures of Compactness Summary

Reock The measure is always between 0 and 1, with 1 being the most compact.

Polsby-Popper The measure is always between 0 and 1, with 1 being the most compact.

Exhibit 9

User:

Plan Name: GA_House_ILLUSTRATIVE_REVIEW

Plan Type:

Districts & Their Incumbents

Districts & Their Incumbents

GA_House_ILLUSTRATIVE_REVIEW

District	Name	Party	Previous District
001	Steve Tarvin	R	2
001	Michael Cameron	R	1
002			
003	Dewayne Hill	R	3
004	Kasey Carpenter	R	4
005	Matt Barton	R	5
006	Jason Ridley	R	6
007	David Ralston	R	7
008	Norman Gunter	R	8
009	Will Wade	R	9
010	Victor Anderson	R	10
011	Rick Jasperse	R	11
012	James Lumsden	R	12
013	Katie Dempsey	R	13
014	Mitchell scoggins	R	14
015	Matthew Gambill	R	15
016			
017	Micah Gravley	R	67
017	Martin Momtahan	R	17
018	Trey Kelley	R	16
018	Tyler Smith	R	18
019	Joseph Gullett	R	19
020			
021	Brad Thomas	R	21
021	Wes Cantrell	R	22
022	Charlice Byrd	R	20
023	Mandi Ballinger	R	23

User:

Plan Name: GA_House_ILLUSTRATIVE_REVIEW

Plan Type:

Districts & Their Incumbents

Districts & Their Incumbents

GA_House_ILLUSTRATIVE_REVIEW

District	Name	Party	Previous District
024	Sheri Gilligan	R	24
025	Todd Jones	R	25
026	Lauren McDonald	R	26
027	Emory Dunahoo Jr	R	30
027	Lee Hawkins	R	27
028			
029	Matt Dubnik	R	29
030			
031	Thomas Benton	R	31
032	Chris Erwin	R	28
033	Alan Powell	R	32
034	Ginny Ehrhart	R	36
034	Devan Seabaugh	R	34
035			
036	David Wilkerson	D	38
037			
038			
039	Erica Thomas	D	39
040	Teri Anulewicz	D	42
041	Michael Smith	D	41
042	Erick Allen	D	40
042	Sharon Cooper	R	43
043	Mary Frances Williams	D	37
044	Ed Setzler	R	35
045	Matthew Dollar	R	45
046	Donald Parsons	R	44
046	John Carson	R	46
047	Jan Jones	R	47

User:

Plan Name: GA_House_ILLUSTRATIVE_REVIEW

Plan Type:

Districts & Their Incumbents

Districts & Their Incumbents

GA_House_ILLUSTRATIVE_REVIEW

District	Name	Party	Previous District
048	Charles Martin	R	49
049			
050	Angelika Kausche	D	50
051	Mary Robichaux	D	48
052	Mike Wilensky	D	79
053	Josh McLauren	D	51
054	Shea Roberts	D	52
055	Mesha Mainor	D	56
056	Betsy Holland	D	54
057	Stacy Evans	D	57
058	Park Cannon	D	58
059			
060	Marie Metze	D	55
060	Sheila Jones	D	53
061	Roger Bruce	D	61
062	William Boddie	D	62
063	Kim Schofield	D	60
063	David Dreyer	D	59
064			
065	Lynn Smith	R	70
066	Kimberly Alexander	D	66
067	Mandisha Thomas	D	65
068	Debra Bazemore	D	63
069	Derrick Jackson	D	64
070	James Collins	R	68
071			
072	Randy Nix	R	69
073	Philip Singleton	R	71

User:

Plan Name: GA_House_ILLUSTRATIVE_REVIEW

Plan Type:

Districts & Their Incumbents

Districts & Their Incumbents

GA_House_ILLUSTRATIVE_REVIEW

District	Name	Party	Previous District
074	Josh Bonner	R	72
075	Mike Glanton	D	75
076	Sandra Scott	D	76
077	Yasmine Neal	D	74
078			
079	Rhonda Burnough	D	77
080	Scott Holcomb	D	81
081			
082	Becky Evans	D	83
082	Mary Margaret Oliver	D	82
083	Matthew Wilson	D	80
084	Bee Nguyen	D	89
084	Renitta Shannon	D	84
085	Zulma Lopez	D	86
086	Karla Drenner	D	85
086	Viola Davis	D	87
087	Billy Mitchell	D	88
088	Doreen Carter	D	92
088	Karen Bennett	D	94
088	Dar'shun Kendrick	D	93
089			
090			
091			
092	Angela Moore	D	90
093	Rhonda Taylor	D	91
094			
095	Tom Kirby	R	114
096			

User:

Plan Name: GA_House_ILLUSTRATIVE_REVIEW

Plan Type:

Districts & Their Incumbents

Districts & Their Incumbents

GA_House_ILLUSTRATIVE_REVIEW

District	Name	Party	Previous District
097	Beth Moore	D	95
098	Marvin Lim	D	99
099	Bonnie Rich	R	97
100			
101	Sam Park	D	101
102			
103			
104	Terry England	R	116
104	Timothy Barr	R	103
105	Gregg Kennard	D	102
106	Rebecca Mitchell	D	106
106	Shelly Hutchinson	D	107
107			
108	Jasmine Clark	D	108
109	Pedro Marin	D	96
109	Dewey McClain	D	100
110			
111	Donna McLeod	D	105
111	Chuck Efstration	R	104
112	Bruce Williamson III	R	115
113			
114	Sharon Henderson	D	113
115			
116	Demetrius Douglas	D	78
116	El-Mahdi Holly	D	111
116	Regina Lewis-Ward	D	109
117			
118	Clint Crowe	R	110

User:

Plan Name: GA_House_ILLUSTRATIVE_REVIEW

Plan Type:

Districts & Their Incumbents

Districts & Their Incumbents

GA_House_ILLUSTRATIVE_REVIEW

District	Name	Party	Previous District
118	Susan Holmes	R	129
118	Dave Belton	R	112
119			
120	Houston Gaines	R	117
120	Spencer Frye	D	118
121	Marcus Wiedower	R	119
122			
123	Rob Leverett	R	33
124	Trey Rhodes	R	120
125	Barry Fleming	R	121
126	Shelia Nelson	D	125
127	Jodi Lott	R	122
128	Mack Jackson	D	128
129	Brian Prince	D	127
129	Mark Newton	R	123
130	Wayne Howard	D	124
131			
132	Gloria Frazier	D	126
133	Rick Williams	R	145
134	David Knight	R	130
134	Mathiak	R	73
135	Beth Camp	R	131
135	Robert Dickey	R	140
136	David Jenkins	R	132
137	Vance Smith	R	133
137	Debbie Buckner	D	137
138	Richard Smith	R	134

User:

Plan Name: GA_House_ILLUSTRATIVE_REVIEW

Plan Type:

Districts & Their Incumbents

Districts & Their Incumbents

GA_House_ILLUSTRATIVE_REVIEW

District	Name	Party	Previous District
139	Gerald Greene	R	151
140	Calvin Smyre	D	135
141	Carolyn Hugley	D	136
142			
143	Miriam Paris	D	142
143	James Beverly	D	143
143	Dale Washburn	R	141
144			
145			
146	Danny Mathis	R	144
146	Shaw Blackmon	R	146
147	Heath Clark	R	147
148	Robert Pruitt	R	149
149			
150	Patty Bentley	D	139
151	Mike Cheokas	R	138
151	Noel Williams	R	148
152			
153	Winfred Dukes	D	154
153	CaMia Hopson-Jackson	D	153
154	Joe Campbell	R	171
155	Matt Hatchett	R	150
156	Leesa Hagan	R	156
157	William (Bill) Werkheiser	R	157
158			
159	Larry (Butch) Parrish	R	158
159	Jon Burns	R	159
160	Jan Tankersley	R	160

User:

Plan Name: GA_House_ILLUSTRATIVE_REVIEW

Plan Type:

Districts & Their Incumbents

Districts & Their Incumbents

GA_House_ILLUSTRATIVE_REVIEW

District	Name	Party	Previous District
161	Bill Hitchens	R	161
162			
163	Ron Stephens	R	164
163	Carl Gilliard	D	162
164			
165	Derek Mallow	D	163
166	Jesse Petrea	R	166
167	Steven Meeks	R	178
167	Buddy Deloach	R	167
168	Al Williams	D	168
169	Clay Pirkle	R	155
170	Penny Houston	R	170
171			
172	Sam Waston	R	172
172	Bill Yearta	R	152
173	Darlene Taylor	R	173
173	John LaHood	R	175
174	John Corbett	R	174
174	James Burchett	R	176
175			
176	Dominic LaRiccia	R	169
177	Dexter Sharper	D	177
178			
179	Don Hogan	R	179
180	Steven Sainz	R	180

User:

Plan Name: GA_House_ILLUSTRATIVE_REVIEW

Plan Type:

Districts & Their Incumbents

Districts & Their Incumbents

GA_House_ILLUSTRATIVE_REVIEW

District	Name	Party	Previous District
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Number of Incumbents in District with more than one Incumbent:	74	
Number of Districts with No Incumbent:	41	
Number of Districts with Incumbents of more than one party:	7	
Number of Districts with Paired Democrats:	10	
Number of Districts with Paired Republicans:	18	

Exhibit 10

User:

Plan Name: GA_Senate2021

Plan Type:

Population Summary

Population Summary

GA_Senate2021

District	Population	Deviation	% Devn.	[% Black]	[% 18+_AP_Blk]
001	191,402	118	0.06%	24.27%	25.08%
002	190,408	-876	-0.46%	48.03%	46.86%
003	191,212	-72	-0.04%	21.28%	21.18%
004	191,098	-186	-0.10%	22.86%	23.37%
005	191,921	637	0.33%	27.57%	29.94%
006	191,401	117	0.06%	21.88%	23.9%
007	189,709	-1,575	-0.82%	20.56%	21.44%
008	192,396	1,112	0.58%	30.35%	30.38%
009	192,915	1,631	0.85%	29%	29.53%
010	192,898	1,614	0.84%	69.71%	71.46%
011	189,976	-1,308	-0.68%	31.3%	31.04%
012	190,819	-465	-0.24%	59.08%	57.97%
013	189,326	-1,958	-1.02%	27.26%	26.97%
014	192,533	1,249	0.65%	17.15%	18.97%
015	189,446	-1,838	-0.96%	52.99%	54%
016	191,829	545	0.28%	22.51%	22.7%
017	192,510	1,226	0.64%	31.64%	32.01%
018	191,825	541	0.28%	30.27%	30.4%
019	192,316	1,032	0.54%	25.16%	25.72%
020	192,588	1,304	0.68%	30.89%	31.28%
021	192,572	1,288	0.67%	6.66%	7.46%
022	193,163	1,879	0.98%	57.21%	56.5%
023	190,344	-940	-0.49%	34.99%	35.48%
024	192,674	1,390	0.73%	19.18%	19.85%
025	191,161	-123	-0.06%	33.69%	33.48%
026	189,945	-1,339	-0.70%	57.75%	56.99%

User:

Plan Name: GA_Senate2021

Plan Type:

Population Summary

Population Summary

GA_Senate2021

District	Population	Deviation	% Devn.	[% Black]	[% 18+_AP_Blk]
027	190,676	-608	-0.32%	4.43%	5%
028	190,422	-862	-0.45%	19.05%	19.51%
029	189,424	-1,860	-0.97%	26.49%	26.88%
030	191,475	191	0.10%	20.15%	20.92%
031	192,560	1,276	0.67%	20.22%	20.7%
032	192,448	1,164	0.61%	13.56%	14.86%
033	192,694	1,410	0.74%	41.18%	42.96%
034	190,668	-616	-0.32%	67.47%	69.54%
035	192,839	1,555	0.81%	70.59%	71.9%
036	192,282	998	0.52%	51.92%	51.34%
037	192,671	1,387	0.73%	18.38%	19.27%
038	193,155	1,871	0.98%	63.41%	65.3%
039	191,500	216	0.11%	60.97%	60.7%
040	190,544	-740	-0.39%	16.84%	19.24%
041	191,023	-261	-0.14%	60.99%	62.61%
042	190,940	-344	-0.18%	28.54%	30.78%
043	192,729	1,445	0.76%	63.42%	64.33%
044	190,036	-1,248	-0.65%	69.94%	71.34%
045	190,692	-592	-0.31%	17.52%	18.58%
046	190,312	-972	-0.51%	16.88%	16.9%
047	190,607	-677	-0.35%	17.14%	17.42%
048	190,123	-1,161	-0.61%	8.51%	9.47%
049	189,355	-1,929	-1.01%	7.32%	7.96%
050	189,320	-1,964	-1.03%	5.13%	5.61%
051	190,167	-1,117	-0.58%	0.88%	1.21%
052	190,799	-485	-0.25%	12.56%	13.04%

User:

Plan Name: GA_Senate2021

Plan Type:

Population Summary

Population Summary

GA_Senate2021

District	Population	Deviation	% Devn.	[% Black]	[% 18+_AP_Blk]
053	190,236	-1,048	-0.55%	4.52%	5.1%
054	192,443	1,159	0.61%	3.13%	3.79%
055	190,155	-1,129	-0.59%	63.85%	65.97%
056	191,226	-58	-0.03%	6.5%	7.57%

Total Population: 10,711,908

Ideal District Population: 191,284

Summary Statistics:

Population Range: 189,320 to 193,163

Ratio Range: 0.02

Absolute Range: -1,964 to 1,879

Absolute Overall Range: 3843

Relative Range: -1.03% to 0.98%

Relative Overall Range: 2.01%

Absolute Mean Deviation: 1012.61

Relative Mean Deviation: 0.53%

Standard Deviation: 1154.96

Exhibit 11

User:

Plan Name: GA_Senate2021

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_Senate2021

Number of subdivisions not split:

County	130
Voting District	2,651

Number of subdivisions split into more than one district:

County	29
Voting District	47

Number of splits involving no population:

County	0
Voting District	8

Split Counts

County

- Cases where an area is split among 2 Districts: 18
- Cases where an area is split among 3 Districts: 7
- Cases where an area is split among 6 Districts: 1
- Cases where an area is split among 7 Districts: 1
- Cases where an area is split among 9 Districts: 1
- Cases where an area is split among 10 Districts: 1

Voting District

- Cases where an area is split among 2 Districts: 46
- Cases where an area is split among 3 Districts: 1

County	Voting District	District	Population
<i>Split Counties:</i>			
Barrow GA		045	39,217
Barrow GA		046	17,116
Barrow GA		047	27,172
Bartow GA		037	11,130
Bartow GA		052	97,771
Bibb GA		018	53,182

User:

Plan Name: GA_Senate2021

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_Senate2021

Bibb GA	025	15,513
Bibb GA	026	88,651
Chatham GA	001	81,408
Chatham GA	002	190,408
Chatham GA	004	23,475
Cherokee GA	021	109,034
Cherokee GA	032	90,981
Cherokee GA	056	66,605
Clarke GA	046	52,016
Clarke GA	047	76,655
Clayton GA	034	158,608
Clayton GA	044	138,987
Cobb GA	006	92,249
Cobb GA	032	101,467
Cobb GA	033	192,694
Cobb GA	037	181,541
Cobb GA	038	108,305
Cobb GA	056	89,893
Coffee GA	013	19,881
Coffee GA	019	23,211
Columbia GA	023	59,796
Columbia GA	024	96,214
DeKalb GA	010	75,906
DeKalb GA	040	164,997
DeKalb GA	041	183,560
DeKalb GA	042	190,940
DeKalb GA	043	32,212
DeKalb GA	044	51,049
DeKalb GA	055	65,718
Douglas GA	028	25,889
Douglas GA	030	23,454

User:

Plan Name: GA_Senate2021

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_Senate2021

Douglas GA	035	94,894
Fayette GA	016	87,134
Fayette GA	034	32,060
Floyd GA	052	85,090
Floyd GA	053	13,494
Forsyth GA	027	190,676
Forsyth GA	048	60,607
Fulton GA	006	99,152
Fulton GA	014	192,533
Fulton GA	021	83,538
Fulton GA	028	6,963
Fulton GA	035	97,945
Fulton GA	036	192,282
Fulton GA	038	84,850
Fulton GA	039	191,500
Fulton GA	048	83,219
Fulton GA	056	34,728
Gordon GA	052	7,938
Gordon GA	054	49,606
Gwinnett GA	005	191,921
Gwinnett GA	007	189,709
Gwinnett GA	009	192,915
Gwinnett GA	040	25,547
Gwinnett GA	041	7,463
Gwinnett GA	045	151,475
Gwinnett GA	046	27,298
Gwinnett GA	048	46,297
Gwinnett GA	055	124,437
Hall GA	049	189,355
Hall GA	050	13,781
Henry GA	010	116,992

User:

Plan Name: GA_Senate2021

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_Senate2021

Henry GA		017	82,287
Henry GA		025	41,433
Houston GA		018	42,875
Houston GA		020	74,275
Houston GA		026	46,483
Jackson GA		047	56,660
Jackson GA		050	19,247
Muscogee GA		015	142,205
Muscogee GA		029	64,717
Newton GA		017	45,536
Newton GA		043	66,947
Paulding GA		030	18,954
Paulding GA		031	149,707
Richmond GA		022	193,163
Richmond GA		023	13,444
Walton GA		017	44,590
Walton GA		046	52,083
Ware GA		003	10,431
Ware GA		008	25,820
White GA		050	12,642
White GA		051	15,361
<i>Split VTDs:</i>			
Bibb GA	HOWARD 1	018	5,912
Bibb GA	HOWARD 1	025	31
Bibb GA	HOWARD 2	018	5,445
Bibb GA	HOWARD 2	025	0
Bibb GA	HOWARD 3	018	12,640
Bibb GA	HOWARD 3	025	14
Bibb GA	HOWARD 5	018	267
Bibb GA	HOWARD 5	025	2,103

User:

Plan Name: GA_Senate2021

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_Senate2021

Chatham GA	BLOOMINGDALE	001	4,099
	COMMUNITY CENTER		
Chatham GA	BLOOMINGDALE	004	755
	COMMUNITY CENTER		
Chatham GA	POOLER CHRURCH	001	5,330
Chatham GA	POOLER CHRURCH	004	4,407
Clarke GA	3B	046	5,752
Clarke GA	3B	047	4,194
Clarke GA	6C	046	2,971
Clarke GA	6C	047	2,036
Cobb GA	Dobbins 01	006	6,586
Cobb GA	Dobbins 01	033	6,310
Cobb GA	Dobbins 01	038	505
Cobb GA	Elizabeth 01	032	3,771
Cobb GA	Elizabeth 01	037	2,099
Cobb GA	Kennesaw 1A	032	1,471
Cobb GA	Kennesaw 1A	037	2,972
Cobb GA	Marietta 3A	032	3,439
Cobb GA	Marietta 3A	033	5,460
Cobb GA	Marietta 5A	006	0
Cobb GA	Marietta 5A	033	4,334
Cobb GA	Marietta 6A	006	3,022
Cobb GA	Marietta 6A	032	1,532
Cobb GA	Marietta 7A	006	993
Cobb GA	Marietta 7A	033	5,918
Cobb GA	Nickajack 01	006	2,398
Cobb GA	Nickajack 01	038	3,728
Cobb GA	Norton Park 01	033	7,049
Cobb GA	Norton Park 01	038	752
Cobb GA	Oregon 03	033	12,988
Cobb GA	Oregon 03	037	0

User:

Plan Name: GA_Senate2021

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_Senate2021

Cobb GA	Powers Ferry 01	006	4,963
Cobb GA	Powers Ferry 01	033	464
Cobb GA	Sewell Mill 03	006	5,051
Cobb GA	Sewell Mill 03	033	1,886
Cobb GA	Vinings 02	006	4,624
Cobb GA	Vinings 02	038	5,019
Coffee GA	DOUGLAS	013	12,595
Coffee GA	DOUGLAS	019	15,976
Floyd GA	GARDEN LAKES	052	1,024
Floyd GA	GARDEN LAKES	053	7,817
Forsyth GA	BIG CREEK	027	15,216
Forsyth GA	BIG CREEK	048	10,302
Forsyth GA	POLO	027	24,894
Forsyth GA	POLO	048	964
Fulton GA	RW09	021	2,971
Fulton GA	RW09	056	4,750
Fulton GA	RW12	021	4,274
Fulton GA	RW12	056	3,958
Fulton GA	SC08B	035	223
Fulton GA	SC08B	039	5,124
Fulton GA	SC18C	035	1,852
Fulton GA	SC18C	039	521
Gordon GA	LILY POND	052	1,641
Gordon GA	LILY POND	054	996
Gwinnett GA	DACULA	045	2,699
Gwinnett GA	DACULA	046	4,613
Gwinnett GA	LAWRENCEVILLE E	005	2,075
Gwinnett GA	LAWRENCEVILLE E	009	1,386
Gwinnett GA	PINCKNEYVILLE W	005	5,605
Gwinnett GA	PINCKNEYVILLE W	007	2,701
Hall GA	GLADE	049	5,135

User:

Plan Name: GA_Senate2021

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_Senate2021

Hall GA	GLADE	050	1,735
Hall GA	TADMORE	049	4,129
Hall GA	TADMORE	050	10,220
Houston GA	FMMS	018	5,178
Houston GA	FMMS	020	8,151
Houston GA	MCMS	018	3,625
Houston GA	MCMS	020	9,869
Houston GA	RECR	020	0
Houston GA	RECR	026	17,798
Jackson GA	Central Jackson	047	24,383
Jackson GA	Central Jackson	050	0
Jackson GA	North Jackson	047	0
Jackson GA	North Jackson	050	19,247
Muscogee GA	COLUMBUS TECH	015	6,919
Muscogee GA	COLUMBUS TECH	029	2,228
Paulding GA	CARL SCOGGINS MID SC	030	7,586
Paulding GA	CARL SCOGGINS MID SC	031	2,162
Paulding GA	TAYLOR FARM PARK	030	475
Paulding GA	TAYLOR FARM PARK	031	12,958
Ware GA	100	003	2,672
Ware GA	100	008	3,692
Ware GA	200A	003	0
Ware GA	200A	008	4,133
Ware GA	304	003	0
Ware GA	304	008	2,107
Ware GA	400	003	4,626
Ware GA	400	008	406

Exhibit 12

User:

Plan Name: GA_Senate2021

Plan Type:

Measures of Compactness Report

Wednesday, November 30, 2022

Measures of Compactness Report

GA_Senate2021

	Reock	Polsby-Popper
Sum	N/A	N/A
Min	0.17	0.13
Max	0.68	0.50
Mean	0.42	0.29
Std. Dev.	0.11	0.08

District	Reock	Polsby-Popper
001	0.49	0.31
002	0.47	0.22
003	0.39	0.21
004	0.47	0.27
005	0.17	0.21
006	0.41	0.24
007	0.35	0.34
008	0.45	0.23
009	0.24	0.21
010	0.28	0.23
011	0.36	0.33

User:

Plan Name: GA_Senate2021

Plan Type:

Measures of Compactness Report

Wednesday, November 30, 2022

Measures of Compactness Report

GA_Senate2021

012	0.62	0.39
013	0.45	0.26
014	0.27	0.24
015	0.57	0.32
016	0.37	0.31
017	0.35	0.17
018	0.47	0.21
019	0.53	0.37
020	0.41	0.36
021	0.42	0.33
022	0.41	0.29
023	0.37	0.16
024	0.37	0.21
025	0.39	0.24
026	0.47	0.20
027	0.50	0.46
028	0.45	0.25
029	0.58	0.42
030	0.60	0.41

User:

Plan Name: GA_Senate2021

Plan Type:

Measures of Compactness Report

Wednesday, November 30, 2022

Measures of Compactness Report

GA_Senate2021

031	0.37	0.38
032	0.29	0.21
033	0.40	0.22
034	0.45	0.34
035	0.47	0.26
036	0.32	0.30
037	0.49	0.37
038	0.36	0.21
039	0.17	0.13
040	0.51	0.34
041	0.51	0.30
042	0.48	0.32
043	0.64	0.35
044	0.18	0.19
045	0.35	0.30
046	0.37	0.21
047	0.36	0.19
048	0.35	0.34
049	0.46	0.34

User:

Plan Name: GA_Senate2021

Plan Type:

Measures of Compactness Report

Wednesday, November 30, 2022

Measures of Compactness Report

GA_Senate2021

050	0.45	0.23
051	0.68	0.50
052	0.47	0.25
053	0.49	0.40
054	0.60	0.44
055	0.34	0.27
056	0.38	0.30

Measures of Compactness Summary

Reock The measure is always between 0 and 1, with 1 being the most compact.
Polsby-Popper The measure is always between 0 and 1, with 1 being the most compact.

Exhibit 13

User:

Plan Name: GA_Senate2021

Plan Type:

Districts & Their Incumbents

Districts & Their Incumbents

GA_Senate2021

District	Name	Party	Previous District
001	Ben Watson	R	1
002	Lester Jackson, III	D	2
003	Sheila McNeill	R	3
004	Billy Hickman	R	4
005	Sheikh Rahman	D	5
006	Jen Jordan	D	6
007			
008	Russ Goodman	R	8
009	Nikki Merritt	D	9
010	Emanuel Jones	D	10
011	Dean Burke	R	11
012	Freddie Powell Sims	D	12
013	Carden Summers	R	13
013	Tyler Harper	R	7
014			
015	Ed Harbison	D	15
016	Marty Harbin	R	16
017	Brian Strickland	R	17
018	John Kennedy	R	18
019	Blake Tillery	R	19
020	Larry Walker III	R	20
021	Brandon Beach	R	21
022	Harold Jones	D	22
023	Max Burns	R	23
024	Lee Anderson	R	24
025	Burt Jones	R	25
026	David Lucas	D	26

User:

Plan Name: GA_Senate2021

Plan Type:

Districts & Their Incumbents

Districts & Their Incumbents

GA_Senate2021

District	Name	Party	Previous District
027	Greg Dolezal	R	27
028	Matt Brass	R	28
029	Randy Robertson	R	29
030	Mike Dugan	R	30
031	Jason Anavitarte	R	31
032	Kay Kirkpatrick	R	32
033	Michael Rhett	D	33
034	Valencia Seay	D	34
035	Donzella James	D	35
036	Nan Orrock	D	36
037	Lindsey Tippins	R	37
038	Horacena Tate	D	39
039	Sonya Halpern	D	39
040	Sally Harrell	D	40
041	Kim Jackson	D	41
042	Elena Parent	D	42
043	Tonya Anderson	D	43
044	Gail Davenport	D	44
045	Clint Dixon	R	45
046	Bill Cowsert	R	46
047	Frank Ginn	R	47
048	Michelle Au	D	48
049	Butch Miller	R	49
050	Bo Hatchett	R	50
051	Steve Gooch	R	51
052	Chuck Hufstetler	R	52
052	Bruce Thompson	R	14

User:

Plan Name: GA_Senate2021

Plan Type:

Districts & Their Incumbents

Districts & Their Incumbents

GA_Senate2021

District	Name	Party	Previous District
053	Jeff Mullis	R	53
054	Chuck Payne	R	54
055	Gloria Butler	D	55
056	John Albers	R	56




Number of Incumbents in District with more than one Incumbent:	4	
Number of Districts with No Incumbent:	2	
Number of Districts with Incumbents of more than one party:	0	
Number of Districts with Paired Democrats:	0	
Number of Districts with Paired Republicans:	2	

Exhibit 14

User:

Plan Name: GA_Senate_ILLUSTRATIVE_REVIEW

Plan Type:

Population Summary

Population Summary

GA_Senate_ILLUSTRATIVE_REVIEW

District	Population	Deviation	% Devn.	[% Black]	[% 18+_AP_Bl]
001	190,251	-1,033	-0.54%	24.19%	24.82%
002	190,661	-623	-0.33%	45.31%	44.38%
003	190,783	-501	-0.26%	25.77%	25.96%
004	190,465	-819	-0.43%	22.96%	23.56%
005	190,713	-571	-0.30%	25.28%	26.45%
006	190,210	-1,074	-0.56%	19.88%	21.63%
007	192,767	1,483	0.78%	20.19%	22.18%
008	190,227	-1,057	-0.55%	36.1%	35.85%
009	190,626	-658	-0.34%	45.96%	46.7%
010	192,203	919	0.48%	51.62%	52.24%
011	192,025	741	0.39%	52.66%	51.94%
012	192,832	1,548	0.81%	48.45%	48.82%
013	190,981	-303	-0.16%	27.27%	27.02%
014	193,061	1,777	0.93%	15.63%	17.46%
015	191,231	-53	-0.03%	38.13%	38.84%
016	190,934	-350	-0.18%	30.79%	30.9%
017	189,559	-1,725	-0.90%	15.99%	16.36%
018	191,614	330	0.17%	33.83%	34.2%
019	189,614	-1,670	-0.87%	20.36%	20.57%
020	190,061	-1,223	-0.64%	29.66%	29.61%
021	190,882	-402	-0.21%	5.98%	6.78%
022	192,925	1,641	0.86%	56.99%	56.44%
023	190,907	-377	-0.20%	42.83%	42.46%
024	191,324	40	0.02%	21.56%	22.58%
025	192,796	1,512	0.79%	25.12%	24.16%
026	191,737	453	0.24%	49.58%	48.6%

User:

Plan Name: GA_Senate_ILLUSTRATIVE_REVIEW

Plan Type:

Population Summary

Population Summary

GA_Senate_ILLUSTRATIVE_REVIEW

District	Population	Deviation	% Devn.	[% Black]	[% 18+_AP_Blk]
027	192,186	902	0.47%	3.32%	3.77%
028	192,554	1,270	0.66%	15.24%	15.78%
029	189,796	-1,488	-0.78%	26.91%	27.27%
030	191,920	636	0.33%	14.9%	15.69%
031	192,935	1,651	0.86%	26.56%	27.15%
032	193,055	1,771	0.93%	7.48%	8.21%
033	192,422	1,138	0.59%	35.5%	37.09%
034	191,323	39	0.02%	55.03%	56%
035	192,884	1,600	0.84%	59.33%	60.2%
036	192,405	1,121	0.59%	68.43%	69.78%
037	190,499	-785	-0.41%	19.2%	20.41%
038	191,844	560	0.29%	40.98%	42.48%
039	192,491	1,207	0.63%	89.67%	92%
040	189,577	-1,707	-0.89%	13.85%	16.41%
041	191,516	232	0.12%	59.32%	60.92%
042	191,555	271	0.14%	39.06%	40.75%
043	189,970	-1,314	-0.69%	55.02%	55.76%
044	190,482	-802	-0.42%	68.1%	70.47%
045	193,059	1,775	0.93%	16.41%	17.49%
046	189,897	-1,387	-0.73%	29.64%	30.31%
047	191,108	-176	-0.09%	8.98%	9.73%
048	191,791	507	0.27%	10.21%	11.49%
049	189,475	-1,809	-0.95%	7.12%	7.71%
050	189,629	-1,655	-0.87%	9.15%	9.48%
051	189,395	-1,889	-0.99%	0.88%	1.21%
052	191,887	603	0.32%	12.53%	13.02%

User:

Plan Name: GA_Senate_ILLUSTRATIVE_REVIEW

Plan Type:

Population Summary

Population Summary

GA_Senate_ILLUSTRATIVE_REVIEW

District	Population	Deviation	% Devn.	[% Black]	[% 18+_AP_Blk]
053	192,340	1,056	0.55%	4.59%	5.16%
054	189,406	-1,878	-0.98%	3.22%	3.88%
055	191,734	450	0.24%	90.89%	93.65%
056	191,384	100	0.05%	10.62%	12.05%

Total Population: 10,711,908

Ideal District Population: 191,284

Summary Statistics:

Population Range: 189,395 to 193,061

Ratio Range: 0.02

Absolute Range: -1,889 to 1,777

Absolute Overall Range: 3666

Relative Range: -0.99% to 0.93%

Relative Overall Range: 1.92%

Absolute Mean Deviation: 976.11

Relative Mean Deviation: 0.51%

Standard Deviation: 1130.8

Exhibit 15

User:

Plan Name: GA_Senate_ILLUSTRATIVE

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_Senate_ILLUSTRATIVE

Number of subdivisions not split:

County	138
Voting District	2,683

Number of subdivisions split into more than one district:

County	21
Voting District	15

Number of splits involving no population:

County	0
Voting District	0

Split Counts

County

- Cases where an area is split among 2 Districts: 16
- Cases where an area is split among 3 Districts: 1
- Cases where an area is split among 4 Districts: 2
- Cases where an area is split among 5 Districts: 1
- Cases where an area is split among 7 Districts: 1

Voting District

- Cases where an area is split among 2 Districts: 15

County	Voting District	District	Population
<i>Split Counties:</i>			
Chatham GA		001	104,630
Chatham GA		002	190,661
Cherokee GA		021	73,565
Cherokee GA		032	193,055
Clayton GA		034	107,113
Clayton GA		044	190,482
Cobb GA		033	192,422
Cobb GA		037	190,499

User:

Plan Name: GA_Senate_ILLUSTRATIVE

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_Senate_ILLUSTRATIVE

Cobb GA	038	191,844
Cobb GA	056	191,384
Dawson GA	027	24,389
Dawson GA	051	2,409
DeKalb GA	040	189,577
DeKalb GA	041	191,516
DeKalb GA	042	191,555
DeKalb GA	055	191,734
Douglas GA	031	24,274
Douglas GA	035	119,963
Fayette GA	028	34,984
Fayette GA	034	84,210
Floyd GA	052	82,986
Floyd GA	053	15,598
Forsyth GA	021	83,486
Forsyth GA	027	167,797
Fulton GA	006	190,210
Fulton GA	014	193,061
Fulton GA	021	33,831
Fulton GA	035	72,921
Fulton GA	036	192,405
Fulton GA	039	192,491
Fulton GA	048	191,791
Gwinnett GA	005	190,713
Gwinnett GA	007	192,767
Gwinnett GA	009	190,626
Gwinnett GA	045	193,059
Gwinnett GA	046	189,897
Hall GA	047	13,661
Hall GA	049	189,475
Henry GA	010	192,203

User:

Plan Name: GA_Senate_ILLUSTRATIVE

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_Senate_ILLUSTRATIVE

Henry GA		016	48,509
Liberty GA		001	40,883
Liberty GA		003	24,373
Madison GA		025	11,571
Madison GA		050	18,549
Murray GA		051	10,975
Murray GA		054	28,998
Muscogee GA		012	192,832
Muscogee GA		015	14,090
Newton GA		016	7,140
Newton GA		017	8,943
Newton GA		043	96,400
Richmond GA		022	192,925
Richmond GA		024	13,682
Twiggs GA		020	1,978
Twiggs GA		026	6,044

Split VTDs:

Cobb GA	Dobbins 01	033	12,936
Cobb GA	Dobbins 01	038	465
Cobb GA	Elizabeth 01	033	177
Cobb GA	Elizabeth 01	037	5,693
Cobb GA	Marietta 4B	033	3,304
Cobb GA	Marietta 4B	037	24
Cobb GA	Marietta 6A	033	4,518
Cobb GA	Marietta 6A	056	36
Cobb GA	Powder Springs 2a	033	5,005
Cobb GA	Powder Springs 2a	038	9
Cobb GA	Powers Ferry 01	033	485
Cobb GA	Powers Ferry 01	056	4,942
Cobb GA	Sewell Mill 03	033	1,886

User:

Plan Name: GA_Senate_ILLUSTRATIVE

Plan Type:

Political Subdivision Splits Between Districts

Political Subdivision Splits Between Districts

GA_Senate_ILLUSTRATIVE

Cobb GA	Sewell Mill 03	056	5,051
DeKalb GA	Evansdale Elem	040	1,315
DeKalb GA	Evansdale Elem	041	4,053
Floyd GA	MT ALTO NORTH	052	4,509
Floyd GA	MT ALTO NORTH	053	1,080
Forsyth GA	POLO	021	12,071
Forsyth GA	POLO	027	13,787
Gwinnett GA	CATES D	005	1,426
Gwinnett GA	CATES D	009	4,344
Hall GA	TADMORE	047	11,835
Hall GA	TADMORE	049	2,514
Murray GA	SHUCK PEN	051	2,800
Murray GA	SHUCK PEN	054	2,639
Muscogee GA	PSALMOND/MATHEWS	012	3,214
Muscogee GA	PSALMOND/MATHEWS	015	6,930
Newton GA	ALCOVY	017	1,190
Newton GA	ALCOVY	043	5,525

Exhibit 16

User:

Plan Name: GA_Senate_ILLUSTRATIVE

Plan Type:

Measures of Compactness Report

Measures of Compactness Report

GA_Senate_ILLUSTRATIVE

	Reock	Polsby-Popper
Sum	N/A	N/A
Min	0.24	0.14
Max	0.66	0.60
Mean	0.46	0.36
Std. Dev.	0.09	0.09

District	Reock	Polsby-Popper
001	0.47	0.30
002	0.56	0.32
003	0.34	0.26
004	0.52	0.30
005	0.43	0.36
006	0.33	0.45
007	0.46	0.48
008	0.40	0.42
009	0.45	0.51
010	0.38	0.27
011	0.61	0.48

User:

Plan Name: GA_Senate_ILLUSTRATIVE

Plan Type:

Measures of Compactness Report

Measures of Compactness Report

GA_Senate_ILLUSTRATIVE

012	0.41	0.35
013	0.61	0.31
014	0.32	0.23
015	0.55	0.27
016	0.48	0.27
017	0.46	0.31
018	0.66	0.39
019	0.56	0.27
020	0.43	0.24
021	0.36	0.22
022	0.43	0.34
023	0.48	0.31
024	0.54	0.47
025	0.41	0.29
026	0.50	0.38
027	0.53	0.50
028	0.37	0.34
029	0.50	0.37
030	0.51	0.47

User:

Plan Name: GA_Senate_ILLUSTRATIVE

Plan Type:

Measures of Compactness Report

Measures of Compactness Report

GA_Senate_ILLUSTRATIVE

031	0.61	0.60
032	0.45	0.39
033	0.40	0.14
034	0.49	0.36
035	0.58	0.41
036	0.42	0.37
037	0.54	0.34
038	0.37	0.27
039	0.47	0.45
040	0.54	0.46
041	0.39	0.35
042	0.45	0.42
043	0.47	0.33
044	0.59	0.52
045	0.42	0.37
046	0.45	0.38
047	0.51	0.50
048	0.31	0.28

User:

Plan Name: GA_Senate_ILLUSTRATIVE

Plan Type:

Measures of Compactness Report

Measures of Compactness Report

GA_Senate_ILLUSTRATIVE

049	0.48	0.38
050	0.24	0.20
051	0.49	0.40
052	0.45	0.39
053	0.49	0.40
054	0.55	0.38
055	0.32	0.34
056	0.45	0.32

Measures of Compactness Summary

Reock The measure is always between 0 and 1, with 1 being the most compact.

Polsby-Popper The measure is always between 0 and 1, with 1 being the most compact.

Exhibit 17

User:

Plan Name: GA_Senate_ILLUSTRATIVE_REVIEW

Plan Type:

Districts & Their Incumbents

Districts & Their Incumbents

GA_Senate_ILLUSTRATIVE_REVIEW

District	Name	Party	Previous District
001	Ben Watson	R	1
002	Lester Jackson, III	D	2
003	Sheila McNeill	R	3
004	Billy Hickman	R	4
005			
006	Sonya Halpern	D	39
007			
008			
009	Nikki Merritt	D	9
010	Brian Strickland	R	17
010	Emanuel Jones	D	10
011	Dean Burke	R	11
012	Ed Harbison	D	15
013	Carden Summers	R	13
013	Tyler Harper	R	7
014	Jen Jordan	D	6
015	Freddie Powell Sims	D	12
016	Burt Jones	R	25
016	John Kennedy	R	18
017			
018	Larry Walker III	R	20
019	Russ Goodman	R	8
020	Blake Tillery	R	19
021			
022	Harold Jones	D	22
023	Max Burns	R	23
024	Lee Anderson	R	24
025	Bill Cowsert	R	46

User:

Plan Name: GA_Senate_ILLUSTRATIVE_REVIEW

Plan Type:

Districts & Their Incumbents

Districts & Their Incumbents

GA_Senate_ILLUSTRATIVE_REVIEW

026	David Lucas	D	26
027	Greg Dolezal	R	27
028	Matt Brass	R	28
029	Randy Robertson	R	29
030	Mike Dugan	R	30
031	Jason Anavitarte	R	31
032			
033	Michael Rhett	D	33
034	Marty Harbin	R	16
034	Gail Davenport	D	44
035	Donzella James	D	35
036	Nan Orrock	D	36
037	Lindsey Tippins	R	37
038			
039	Horacena Tate	D	39
040	Sally Harrell	D	40
041	Kim Jackson	D	41
041	Gloria Butler	D	55
042	Elena Parent	D	42
043			
044	Valencia Seay	D	34
045	Clint Dixon	R	45
046	Sheikh Rahman	D	5
047			
048	John Albers	R	56
048	Michelle Au	D	48
048	Brandon Beach	R	21
049	Butch Miller	R	49

User:

Plan Name: GA_Senate_ILLUSTRATIVE_REVIEW





Plan Type:

Districts & Their Incumbents

Districts & Their Incumbents

GA_Senate_ILLUSTRATIVE_REVIEW

050	Bo Hatchett	R	50
050	Frank Ginn	R	47
051	Steve Gooch	R	51
052	Chuck Hufstetler	R	52
052	Bruce Thompson	R	14
053	Jeff Mullis	R	53
054	Chuck Payne	R	54
055	Tonya Anderson	D	43
056	Kay Kirkpatrick	R	32

Number of Incumbents in District with more than one Incumbent:	17	
Number of Districts with No Incumbent:	9	
Number of Districts with Incumbents of more than one party:	3	
Number of Districts with Paired Democrats:	1	
Number of Districts with Paired Republicans:	4	

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GEORGIA STATE CONFERENCE OF)
THE NAACP, et al.)

Plaintiffs,)

v.)
STATE OF GEORGIA, et al.)

Case No. 1:21-CV-5338-ELB-SCJ-SDG

Defendants.)

COMMON CAUSE, et al.,)

Plaintiffs,)

v.)
BRAD RAFFENSPERGER)

Case No. 1:22-CV-00090-ELB-SCJ-SDG

Defendant.)

Served on behalf of the Georgia State Conf. of the NAACP Plaintiffs

Expert Report of Dr. Benjamin Schneer

Racially Polarized Voting Analysis: Georgia

Benjamin Schneer

January 13, 2023

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Introduction

1. My name is Benjamin Schneer and I am an Assistant Professor of Public Policy at the Harvard Kennedy School. I joined Harvard's faculty in 2018, after working for two years as an Assistant Professor of Political Science at Florida State University. In 2016 I completed my Ph.D in Political Science in the Department of Government at Harvard University, where my dissertation won the Richard J. Hernstein Prize. At the Harvard Kennedy School, I teach a course on Empirical Methods and a course on Data Science for Politics.

2. My research is focused on American politics, particularly elections, political representation, and redistricting. I have published research articles in several leading peer-reviewed academic journals including *Science*, *American Journal of Political Science*, *Journal of Politics*, *Quarterly Journal of Political Science*, *Political Behavior*, *Studies in American Political Development*, and *Legislative Studies Quarterly*. My work received the annual Best Paper Award from the *American Journal of Political Science* in 2018, and other research of mine has received media coverage in outlets including *The New York Times*, *The Washington Post*, *The Los Angeles Times*, and *The Economist*.

3. I have worked as a consultant on several matters related to voting rights and redistricting. I co-authored, along with Professor Gary King, the analyses of the Arizona Independent Redistricting Commission Congressional and Legislative District maps submitted on behalf of the commission to the Department of Justice in 2012 – resulting in maps that were pre-cleared on the first attempt

for the first time in Arizona's history. I also have worked as a consultant on the Racially Polarized Voting Analysis prepared for the Virginia Redistricting Commission in 2021.

4. I have been retained to analyze the extent of legally significant racially polarized voting in Georgia's congressional, State Senate and State House district maps passed by the General Assembly in the 2021 redistricting cycle. In this report, I estimate voting behavior in these districts, examine the extent of racially polarized voting, and make an assessment of the performance of these districts in terms of the ability of minority groups to elect their candidates of choice. Then, I consider new illustrative districts proposed by the plaintiffs, again examining the extent of racially polarized voting and the ability of minority groups to elect their candidates of choice in the illustrative districts.

Executive Summary

5. Based on my analysis, I find that there is evidence of racially polarized voting in Georgia overall as well as for specific congressional districts (CDs), state Senate districts (SDs), and state House districts (LDs). Black and Hispanic voters tend to vote cohesively and White voters tend to oppose them. I have primarily analyzed racially polarized voting between Black and White voters; in a handful of districts identified by the plaintiffs, I have analyzed racially polarized voting between Black and Hispanic voters on the one hand and White voters on the other hand.

6. Based on my analysis, I view the voter behavior that I have examined

in the state of Georgia to be consistent with racially polarized voting between minority and majority racial groups in (1) all enacted CDs other than CD 5, (2) in all Illustrative Map CDs other than CD 4, (3) in enacted SDs 6, 9, 16, 17, 22, 23, 25, 26, 28, 34, 35, 38, 40, 43, 44, and 55, (4) in all Illustrative Map SDs I analyze (with the possible exception of Illustrative Map 1 SD 40, which is borderline), (5) in enacted LDs 61, 65, 74, 78, 115, 116, 117, 142, 143, 151, 154, 161, 163, 165 and 171, (6) and in all Illustrative Map LDs I analyze.

7. In terms of minority groups' ability to elect their candidates of choice in the enacted congressional, state Senate and state House districts that I examine, revised maps could clearly result in greater minority representation. Furthermore, some districts with meaningful minority population levels nonetheless offer minority groups a limited ability to elect their candidates of choice based on past elections.

8. The Illustrative Maps drawn by the plaintiffs' map-drawing expert Moon Duchin offer an increased ability to elect the minority-preferred candidates in the districts I have been asked to examine. When looking across statewide elections since 2012 where minority candidates ran against non-minority candidates, in the Illustrative Congressional District Map minority candidates won these elections more than half the time in 6 of the 14 districts (43%); this contrasts with the enacted Congressional District Map, where minority candidates won more than half the time in such elections in 5 of the 14 districts (36%). In the Illustrative State Senate Maps, minority candidates won more than half the time in such elections in 5 of the 5 districts that I examined in Illustrative

Map 1 (100%) and in 2 of the 2 districts that I examined in Illustrative Map 2 (100%). This performance contrasts with the enacted Senate Districts I have examined, where minority candidates won more than half the time in 67% of districts. The Illustrative Maps for the State House outperform the enacted map in terms of ability to elect minority candidates as well.

Methodological Approach

Identifying Racially Polarized Voting

9. Racially polarized voting (RPV) occurs when the majority group and a minority racial group vote differently. To identify instances of RPV in Georgia, I examine (1) whether members of a minority group of interest appear to be *cohesive* in their electoral support for a candidate of choice (Specifically, does more than half of a given minority group support the same candidate?); and, (2) whether White voters oppose this candidate (Specifically, do more than half of White voters oppose the minority candidate of choice?).¹

10. To make these determinations, I analyze historical voting behavior from Georgia elections since 2012. The Georgia Secretary of State tracks turnout data by racial group in each precinct, along with aggregate vote totals for each candidate in each precinct. While elections from 2012 to 2021 were conducted

¹For a detailed discussion of cohesion, see Bernard Grofman, Lisa Handley, and Richard G. Niemi, *Minority representation and the quest for voting equality*, Cambridge University Press, 1992. The authors note that courts have concluded that cohesiveness “is to be measured with reference to voting patterns” (p. 68), and that “minority groups are politically cohesive if they vote together for minority candidates” (p. 73).

under the previous district maps, I focus primarily on elections for which changes in district lines are unlikely to affect vote choice. Specifically, I use historical national and state-wide elections to evaluate congressional, state House and state Senate districts. I discuss in more detail the specific elections I have selected to study, and the rationale for my choices, in the next section.

11. Because elections are conducted under a secret ballot, it is not possible to tally vote choice directly for each racial group in order to assess voter behavior in each enacted district. Instead, I estimate racial-group-level vote totals based on the precinct-level election data, producing estimates for each racial group's vote share in support of each candidate.²

12. To do this, I employ a standard approach in the political science literature and in redistricting litigation when one must estimate the voting behavior of specific racial groups based on aggregate vote totals: ecological inference (EI).³ Ecological inference makes use of (1) the statistical information captured by how strongly a candidate's level of support varies in tandem with variation in each racial group's population share across precincts, and (2) deterministic information captured in precincts that consist primarily of one racial group. For example, if a precinct is relatively homogeneous, one can place bounds on the range of possible voting behaviors for a racial group in that precinct, with the

²On the value of both statewide elections and precinct-level data, see Gary King, *A Solution to the Ecological Inference Problem: Reconstructing Individual Behavior from Aggregate Data*, Princeton University Press, 1997. King writes: "For electoral applications, choosing data in which all geographic units have the same candidates (such as precincts from the same district or counties form the same statewide election) is advisable so that election effects are controlled" (p. 28).

³King, 1997.

most extreme version of this occurring when a precinct is entirely homogeneous.⁴ The key advantage of EI is that it combines both the statistical and deterministic information I have just described. Technical summaries of the EI approach can be found in a variety of sources, including King, Rosen and Tanner (2004).⁵ In this report, I use the RxC method of ecological inference, allowing me to identify voting patterns across all the primary racial groups in Georgia at once. This approach is based upon the hierarchical model described in Rosen, Jiang, King and Tanner (2001),⁶ and the draws from this model's posterior distribution are obtained using a Metropolis-within-Gibbs sampling algorithm.⁷ Previous research comparing approaches including ecological regression, 2x2 ecological inference and the Rosen et al. (2001) method has found that these approaches tend to yield similar results, with Rosen et al. (2001) having a slight edge in instances with more than two racial groups.⁸ Additionally, a variety of published research and legal cases have made use of this method.⁹

⁴Otis Dudley Duncan and Beverly Davis, "An alternative to ecological correlation," *American Sociological Review* (1953).

⁵Gary King, Ori Rosen, and Martin A. Tanner, "Information in ecological inference: An introduction," In *Ecological Inference: New Methodological Strategies*, pp. 1-12, Cambridge University Press, 2004.

⁶Ori Rosen, Wenxin Jiang, Gary King, and Martin A. Tanner, "Bayesian and frequentist inference for ecological inference: The $R \times C$ case," *Statistica Neerlandica* 55, no. 2 (2001): 134-156.

⁷Olivia Lau, Ryan T. Moore, and Michael Kellermann, "eiPack: $R \times C$ ecological inference and higher-dimension data management," *New Functions for Multivariate Analysis* 7, no. 1 (2007): 43, Available at <https://cran.r-project.org/web/packages/eiPack/index.html>.

⁸Justin de Benedictis-Kessner, "Evidence in voting rights act litigation: Producing accurate estimates of racial voting patterns," *Election Law Journal* 14, no. 4 (2015): 361-381.

⁹Research articles making use of this approach include: Michael C. Herron and Jasjeet S. Sekhon, "Black candidates and black voters: Assessing the impact of candidate race on uncounted vote rates," *The Journal of Politics* 67, no. 1 (2005): 154-177. Matt Barreto, Loren Collingwood, Sergio Garcia-Rios, and Kassra AR Oskooii. "Estimating candidate support in Voting Rights Act cases: Comparing iterative EI and EI- $R \times C$ methods." *Sociological Methods & Research* 51, no. 1 (2022): 271-304. Legal cases where experts have presented opinions

Measuring District Performance

13. I also examine the performance of the districts being challenged along with newly proposed districts to assess if they allow minority groups to elect candidates of choice. I again use historical elections re-aggregated to the new districts to make this assessment, and I focus on several related questions: (1) What is the minority share of the electorate in the newly enacted districts? (2) In what share of past elections would the minority candidate of choice have won in these historical elections? (3) Given the results for the previous two questions, does the district as drawn constitute sufficient minority voting strength for minority voters to elect candidates of choice?¹⁰

Data Sources

14. To perform the analyses in this report, I rely on elections data from the Georgia Secretary of State's office and the Georgia General Assembly's Legislative and Congressional Reapportionment Office. Georgia, unlike many other states, records turnout data by race for all elections. As a result, there is no uncertainty about the turnout of different racial groups in Georgia and ecological inference analysis only needs to be used to determine voter preferences by race.

making use of RxC ecological inference include: *League of Women Voters of Ohio, et al. v. Ohio Redistricting Commission*, *Caster v. Merrill*, *Milligan v. Merrill*, and previous filings in this case among others.

¹⁰See Grofman, Handley and Niemi, 1992. They write: "What is clearly established by *Gingles* is that white bloc voting is legally significant, regardless of the actual percentages of whites voting against minority-preferred candidates, when it usually results in the defeat of the minority-preferred candidates" (p. 73).

15. The state has produced reapportionment reports that contained precinct-level voter registration and turnout by race¹¹ along with precinct-level vote totals for all general elections between 2014 and 2020. I also requested the data from the 2012 reapportionment report but the state did not provide it; as a result, I instead used 2012 reapportionment report data that I received directly from the Lawyers' Committee for Civil Rights. For the 2022 election, I received data on turnout from the Secretary of State's office but I did not receive precinct-level election totals. As a result, I again used data received from the Lawyers' Committee for Civil Rights.¹²

16. To analyze the 2018 and 2021 runoff elections, I used data compiled by the Voting and Election Science Team (VEST).¹³ These files include precinct-level general election results and turnout data.

Maps

17. To use past election data to understand potential voter behavior in newly-drawn districts, I assign precincts to the enacted congressional and legislative

¹¹Georgia includes the following options for voters to select as their race and/or ethnicity: American Indian, Asian/Pacific Islander, Black, Hispanic/Latino, Other, and White. For the purposes of this report, I focus on the behavior of Black, Hispanic/Latino, and White voters and I combine all other categories into the Other category. When analyzing RPV between Black, Hispanic and White voters I estimate vote shares for each of these four categories but only report the Black, Hispanic and White vote shares. When analyzing RPV between Black and White voters only I include Hispanic voters in the Other category.

¹²The precinct-level election results for the 2022 data were downloaded from the Secretary of State's website at https://sos.ga.gov/index.php/elections/federalgeneral_election_runoff_turnout_by_demographics_january_2021 and compiled by the Lawyer's Committee for Civil Rights.

¹³Voting and Election Science Team. "2020 Precinct-Level Election Results", Harvard Dataverse V29, 2020, <https://doi.org/10.7910/DVN/K7760H>.

district boundaries as well as the illustrative boundaries. In order to accomplish this, I downloaded GIS shape files from the Legislative and Congressional Reapportionment Office page on the Georgia General Assembly website.¹⁴ These included shape files for the passed map of congressional districts, the passed map of state House districts, the passed map of state Senate districts, and precinct shape files for 2012, 2014, 2016, 2018 and 2020. For 2022, I used precinct shape files provided to me by the Lawyers Committee for Civil Rights. For the illustrative maps presented by the plaintiffs, I received data assigning each census block in the state to a district, which I converted into district-level shape files. I then spatially joined precincts for each election year to the enacted and illustrative districts.¹⁵ In practice, the spatial join amounts to finding which precincts are contained within congressional, state Senate and state House districts and then assigning them to the new districts.

Elections

18. I estimate EI models using statewide general elections occurring between 2012 and 2022.¹⁶ These consist of: US Presidential Elections in 2012, 2016

¹⁴Available at <https://www.legis.ga.gov/joint-office/reapportionment>.

¹⁵Specifically, the join is based on a point within the interior of the precinct boundaries and towards the middle of the precinct. I do not use the centroid of the precinct because a centroid can be located outside the boundary of a precinct for non-convex precinct shapes. Split precincts occur rarely; in 2022, for example, 1.18% of precincts in congressional districts, 1.22% of precincts in state Senate districts, and 5.83% of precincts in state House districts were split such that more than 5% of their area was contained in multiple districts.

¹⁶I omit any elections without a candidate from each of the major political parties as well as the 2020 US Senate special election. This election occurred between multiple candidates of different parties, including Raphael Warnock (D), Kelly Loeffler (R), Doug Collins (R), Deborah Jackson (D) and Matt Lieberman (D). This election is qualitatively different from the others as it presents an expanded choice set of candidates, multiple minority candidates, and no candidate

and 2020; US Senatorial Elections in 2014, 2016, 2020, 2021 (Runoff), and 2022 (General and Runoff); State Gubernatorial Elections in 2014, 2018 and 2022; State Lieutenant Governor Elections in 2014, 2018 and 2022; Secretary of State Elections in 2014, 2018 (General and Runoff) and 2022; State Agriculture Commissioner Elections in 2014, 2018 and 2022, State Attorney General Elections in 2014, 2018 and 2022; State Insurance Commissioner Elections in 2014, 2018 and 2022; State Labor Commissioner Elections in 2014, 2018 and 2022; State Superintendent of Public Instruction Elections in 2014, 2018 and 2022; and, State Public Service Commissioner Elections in 2014, 2018 (General and Runoff), 2020 and 2021 (Runoff).

20. When studying the extent of legally significant racially polarized voting in general elections, I estimate ecological inference results for general elections but not for primaries. Primary elections can be of use in an RPV analysis, but in my view studying them is not necessary or sufficient for drawing conclusions about racially polarized voting in Georgia general elections. For example, if racially polarized voting occurs in a Georgia primary election it does not necessarily imply that racially polarized voting will occur in the general election, and vice versa. The primary electorate is often considerably different than the electorate in a general election. Indeed, political science research has found “consistent support for the argument that primary and general electorates diverge in their policy ideology.”¹⁷ Thus, in my judgment, it is sufficient in this case to examine

receiving a majority of votes. Due to these factors, the election poses a less clear test of racially polarized voting, and I do not attempt to draw any conclusions from it at the statewide level or in my subsequent analysis of voting behavior within specific districts.

¹⁷See Seth J. Hill, “Institution of nomination and the policy ideology of primary electorates,”

behavior in general elections in order to determine the extent of racially polarized voting in Georgia general elections.

21. While I estimate RPV results for all statewide general elections since 2012, I rely on those elections in which a minority candidate was one of the two major party candidates running for office as most probative for making inferences about racially polarized voting.¹⁸ In Georgia between 2012 and 2022, among the statewide elections that I examine, a minority candidate ran against a non-minority candidate in the following instances:

- 2012 Presidential Election, Barack Obama (D)
- 2014 Insurance Commissioner Election, Liz Johnson (D)
- 2014 Labor Commissioner Election, Robbin Shipp (D)
- 2014 Lt. Governor Election, Connie Stokes (D)
- 2014 Secretary of State Election, Doreen Carter (D)
- 2014 Superintendent of Public Instruction, Valarie Wilson (D)
- 2014 Public Service Commissioner 4 Election, Daniel Blackman (D)
- 2018 Gubernatorial Election, Stacey Abrams (D)
- 2018 Insurance Commissioner Election, Janice Laws Robinson (D)
- 2018 Superintendent of Public Instruction Election, Otha Thornton (D)
- 2020 Public Service Commissioner 1 Election, Robert Bryant (D)

Quarterly Journal of Political Science 10, no. 4 (2015), p. 480.

¹⁸An election between a minority and a non-minority candidate provides variation in the race of the candidate and therefore offers a test of whether race might matter in vote choice among different voter groups. Some past cases have also placed more weight on elections between a minority and non-minority candidate: “Elections between white and minority candidates are the most probative in determining the existence of legally significant white bloc voting.” See *Old Person v. Cooney*, 230 F.3d 1113, 112324 (9th Cir. 2000).

- 2020 Public Service Commissioner 4 Election, Daniel Blackman (D)
- 2020 US Senator Special Election, Raphael Warnock (D)
- 2021 Public Service Commissioner 4 Runoff, Daniel Blackman (D)
- 2021 US Senator Special Election Runoff, Raphael Warnock (D)
- 2022 Gubernatorial Election, Stacey Abrams (D)
- 2022 Secretary of State Election, Bee Nguyen (D)
- 2022 Agriculture Commissioner Election, Nakita Hemingway (D)
- 2022 Insurance Commissioner Election, Janice Laws Robinson (D)
- 2022 Labor Commissioner Election, William Boddie (D)
- 2022 Superintendent of Public Instruction Election, Alisha Searcy (D)

22. In addition to these elections, I also include elections in which no minority candidate ran or two minority candidates ran as major party candidates. These are useful for establishing a general pattern of vote choice for different racial groups, even if elections with a single minority candidate are most probative for determining the extent of RPV. In all of my subsequent RPV analysis, I examine the vote shares cast in support of the statewide minority-preferred candidate for a given election. I define the statewide minority-preferred candidate as the candidate who garnered the majority of votes cast by minority voters according to statewide EI estimates.¹⁹

¹⁹Note that for any given election it must still be determined whether the statewide minority-preferred candidate is supported cohesively by the minority groups considered in this report. But, whether or not this occurs, by definition there will always be one candidate who received a majority of votes cast by minority voters.

EI Analysis of Enacted Districts

Statewide

23. I begin by analyzing the extent of RPV that has occurred overall in historical statewide elections. At the state level, elections in Georgia exhibit an unambiguous and consistent pattern of racially polarized voting. I make this determination by examining the vote choices of racial groups across past elections.

24. Figure 1 plots the EI estimates for the set of statewide elections under consideration, which were held from 2012 to 2022. The labels on the left side of the plot indicate the specific elections considered. Elections for which one minority candidate ran against a non-minority candidate are indicated with a star. In the plot, the point estimates illustrating the level of support for a candidate are marked with a circle. In this and in all subsequent analyses, these circles represent my estimate of two-party vote share for the minority-preferred candidate (e.g., the votes cast for the preferred major party candidate divided by the sum of the votes cast for the candidates of both major parties) for a given election. The point estimates can be understood in this context as the vote shares that were most likely to have generated the pattern of data (e.g., votes cast for candidates and turnout among different racial groups) that occurred across precincts in a given election. Additionally, the horizontal lines emanating from either side of the circles indicate the bounds of the 95% confidence intervals. The 95% intervals reflect the uncertainty of each estimate; specifically, for the

EI model, they mark the interval for which there is a 95% probability that the true vote share is contained within the lower and upper bounds.²⁰ In instances where no confidence interval is visible, the intervals are narrow and not visible to the eye (though they still exist).

25. I will explain and interpret these plots in two steps.²¹ First, the points clustered on the right side of the plot indicate large majorities of Black and Hispanic voters all supported minority candidates in each election in which they ran between 2012 and 2022 and were opposed by non-minority candidates. In elections without a minority candidate, these voters still acted cohesively to support other minority-preferred candidates.²²

26. For example, in the 2018 gubernatorial election, I estimate that about 99% of Black voters supported Stacey Abrams, a minority candidate. This overwhelming level of support among Black voters for minority candidates running against non-minority candidates is similar across all other elections as well, including for Barack Obama in 2012 (98%), Connie Stokes in 2014 (98%), Doreen Carter in 2014 (98%), Otha Thornton in 2018 (99%) and Raphael Warnock in 2021 (99%).

²⁰See Guido W. Imbens, “Statistical significance, p-values, and the reporting of uncertainty,” *Journal of Economic Perspectives* 35, no. 3 (2021): 157-74. Also see Andrew Gelman, John B. Carlin, Hal S. Stern, and Donald B. Rubin, *Bayesian data analysis*, Chapman and Hall/CRC, 1995. Note that this interpretation of a 95% interval is in subtle contrast with a non-Bayesian or frequentist interpretation of the confidence intervals, which is that if this estimation were repeated for numerous iterations of a given election, the calculated 95% confidence intervals would contain the true value of a racial group’s vote share 95% of the time.

²¹I have included with this report a digital Supplementary Appendix file recording individual estimates and confidence intervals for each election studied in a plot.

²²Table 10 in the Appendix reports the full list of statewide minority-preferred candidates based on my estimates.

27. I estimate that about 96% of Hispanic voters supported Abrams in 2018. Again, the results are generally similar across other elections I examined with minority candidates. When a minority candidate was not one of the two major party candidates, minority voters continued to vote cohesively, supporting particular candidates at overwhelming rates. Overall, then, I conclude that Black and Hispanic voters' past behavior in statewide elections reveals that these groups had a clear *candidate of choice* in each election, with large majorities of these voters supporting the same candidate in each election and voting cohesively. And, in particular, when a minority candidate ran against a non-minority candidate in a general election, a clear majority of each racial minority group voted for the minority candidate.

28. Second, I study voting patterns of White voters. As an example, I estimate that in 2018 15% of White voters supported Abrams. Similarly, across all historical statewide elections between 2012 and 2022, considerably less than half of White voters supported minority candidates (when running against non-minority candidates). A majority of White voters voted against the candidate of choice of minority voters. With this information in mind, my assessment is that these historical elections exhibit clear evidence of racially polarized voting at the statewide level. Hispanic and Black voters cohere around the same candidates of choice, and White voters oppose them, consistent with RPV. Thus, any new districts proposed as a remedy would be drawing from a state where there is evidence of racially polarized voting affecting the minority groups considered in this report.

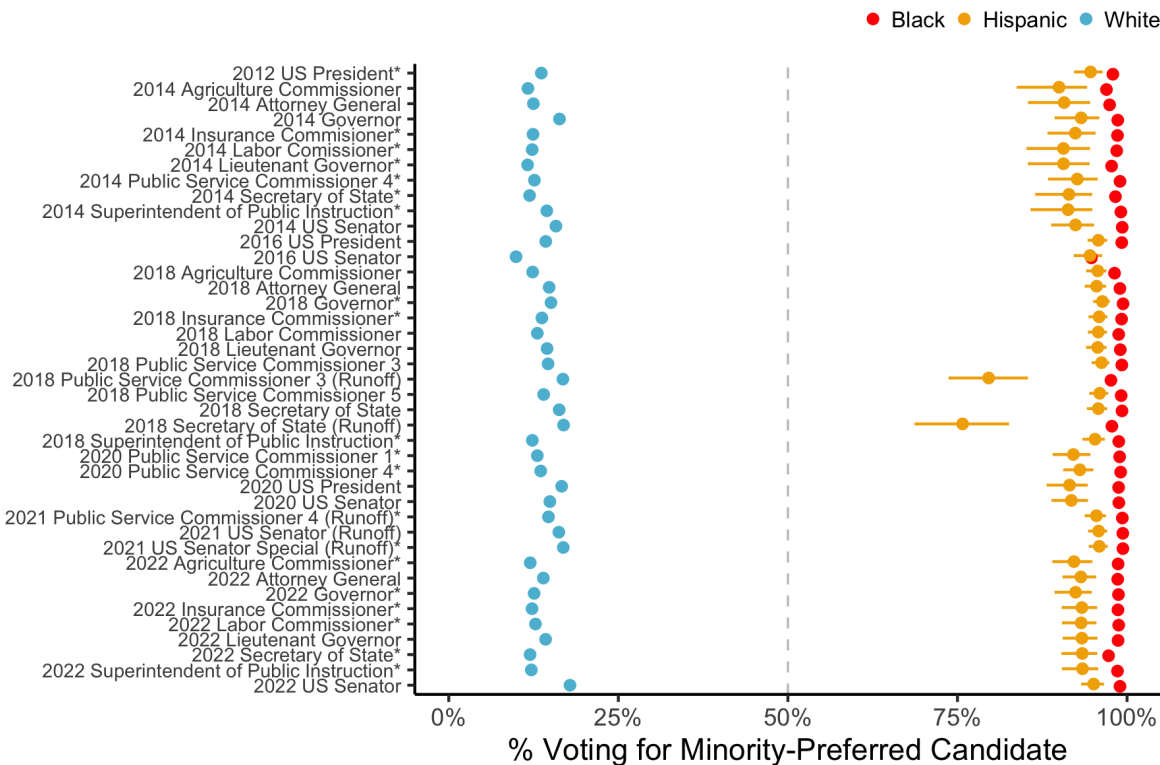


Figure 1: Ecological Inference Results — Statewide (Historical Elections, Two-Party Vote Shares), 3 Racial Groups

Congressional Districts

29. I have been asked to examine RPV between Black and White voters in all enacted congressional districts in the state. Figure 2 illustrates the boundaries of the state's congressional districts.

30. Table 1 records the share of the electorate comprised by each racial group in each congressional district. These estimates are based on averaging across the 2020 and 2022 turnout figures. Minority groups constitute a majority of the electorate in CDs 4, 5, 7 and 13 based on the turnout numbers from 2020 and 2022.

31. Figures 3 through 7 present the EI results for individual congressional districts. As before, the point estimate for a racial group's vote share in a given election is represented with a dot and the uncertainty in the estimate is reflected in the 95% confidence intervals that emanate from the point estimate.

32. For most districts, the analysis of RPV between White and Black voters is very straightforward. In CDs 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13 and 14, Black voters supported, by an overwhelming margin, the minority candidate in all historical elections in which they ran. When a minority candidate did not run or when multiple minority candidates ran, Black voters supported the statewide minority-preferred candidates in these districts: the confidence intervals never overlap with the threshold for majority support (e.g., 50%). White voters opposed the candidate of choice of Black voters in every historical election. Again, the confidence intervals on the estimates for White voters never

overlap with the the threshold for majority support.

33. For example, CD 3 demonstrates clear evidence of RPV between White and Black voters for all elections that I examine. For Black voters, I never estimate a minority-preferred candidate vote share below 92.8%. For White voters, I never estimate a minority-preferred candidate vote share above 12.2%.

34. As another example, CD 7 presents another strong example among the congressional districts of RPV, with Black voters cohering around minority candidates (and other minority-preferred candidates) and with White voters opposing these candidates of choice. In every election with a minority candidate running against a non-minority candidate, minority voters supported the minority candidate, often overwhelmingly. For example, in the 2018 Gubernatorial race, I estimate that 97% of Black voters supported Abrams. In contrast, 19% of White voters in the district supported Abrams according to my estimates. None of the confidence intervals overlapped with the threshold for majority support in this election. The same pattern generally holds in earlier election years where minority candidates ran. In my view, this pattern constitutes clear evidence of RPV.

35. CD 4 exhibits evidence of RPV between White and Black voters as well. In more recent elections a majority of White voters occasionally voted along with minority racial groups; however, this did not occur for any elections in which a minority candidate ran against a non-minority candidate. Two of the four instances where this occurred were lower salience elections, such as the 2018 Runoffs for Secretary of State and for Public Service Commissioner.

Overall, CD 4 suggests to me cohesive behavior across Black voters in support of minority candidates (and other minority-preferred candidates). White voters have reliably opposed the minority candidates of choice.

36. Unlike all other congressional districts in the state, CD 5 does not exhibit evidence of racially polarized voting. White voters in the district tended across a majority of elections to support the same candidate as minority voters. Based on my analysis, Black voters supported minority candidates in all historical elections, but White voters opposed this candidate of choice in only 15% of these elections.

37. To sum up, I observe RPV between Black voters on the one hand and White voters on the other hand when pooling across all CDs (e.g., statewide) as well as specifically for all CDs other than CD 5. In each of these congressional districts, when I focus specifically on elections with one minority candidate, Black voters supported that candidate and were opposed by White voters every time since 2012.

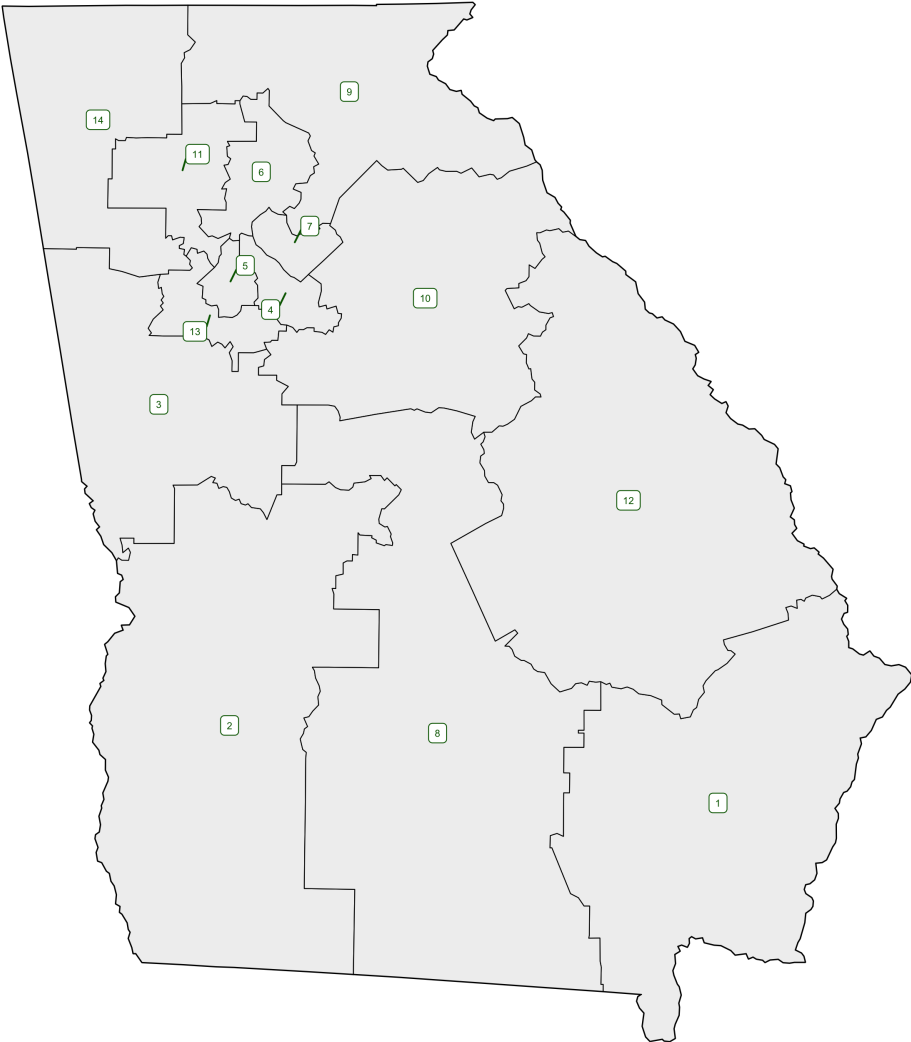


Figure 2: Map of Enacted Congressional Districts

Table 1: Percentage of Electorate by Race, Average of 2020 and 2022 Elections, Enacted CDs

CD	Black	Hispanic	White	Other
1	23.9%	1.8%	64.8%	9.5%
2	40.7%	1.1%	51.9%	6.3%
3	21.0%	1.8%	67.5%	9.7%
4	48.8%	2.3%	35.9%	12.9%
5	39.3%	2.3%	44.1%	14.2%
6	7.2%	3.3%	70.2%	19.2%
7	28.3%	6.5%	43.6%	21.5%
8	24.5%	1.2%	68.5%	5.7%
9	9.1%	4.0%	75.2%	11.7%
10	18.2%	2.1%	70.3%	9.3%
11	14.0%	3.6%	71.1%	11.2%
12	30.0%	1.4%	60.4%	8.2%
13	63.6%	2.8%	20.9%	12.7%
14	13.5%	3.1%	74.8%	8.6%

Note: This table reports the share of the electorate, based on the average across 2020 and 2022 turnout, of each racial group in a given congressional district.



Figure 3: Ecological Inference Results — Enacted Congressional Districts (Historical Elections, Two-Party Vote Shares)

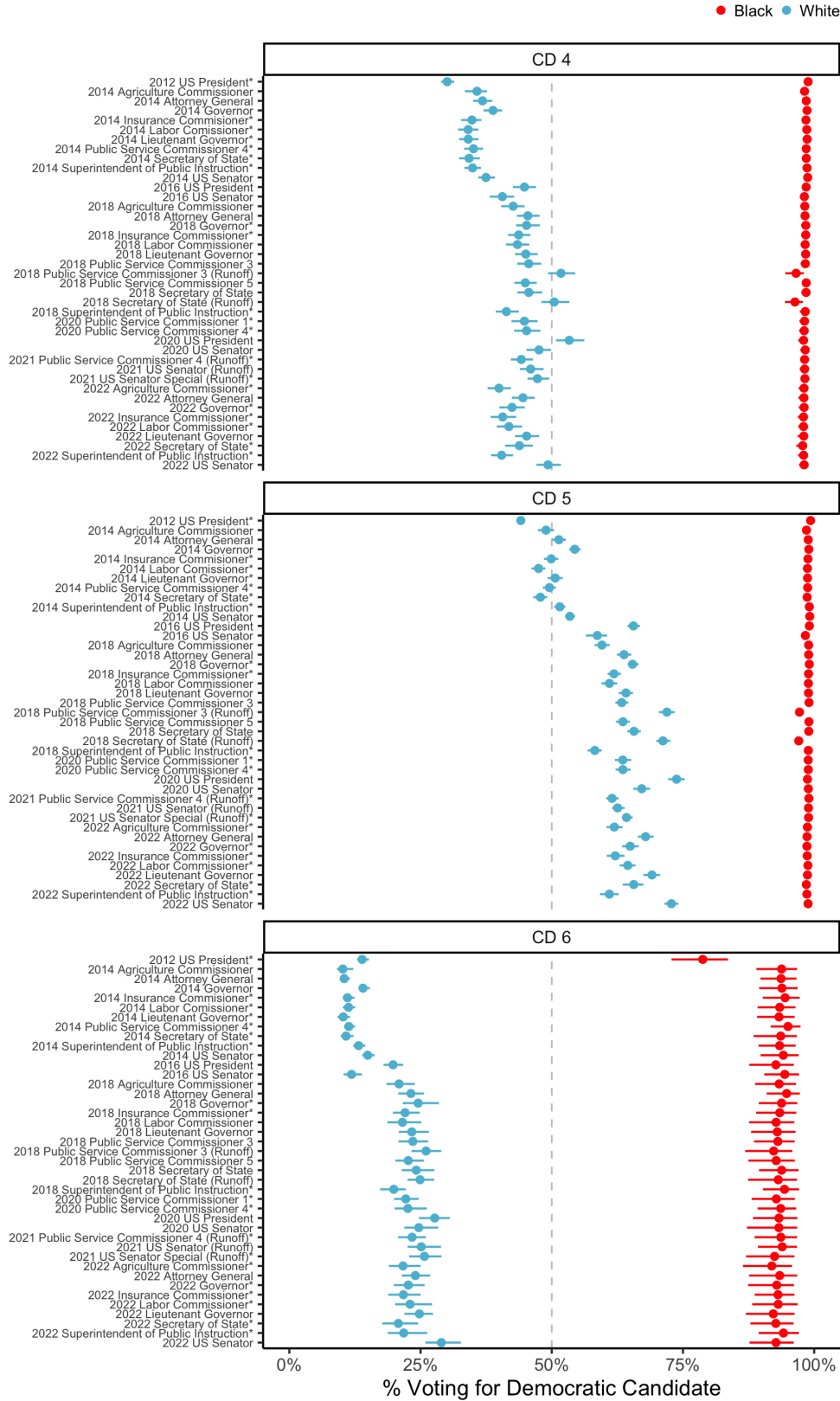


Figure 4: Ecological Inference Results — Enacted Congressional Districts (Historical Elections, Two-Party Vote Shares)



Figure 5: Ecological Inference Results — Enacted Congressional Districts (Historical Elections, Two-Party Vote Shares)

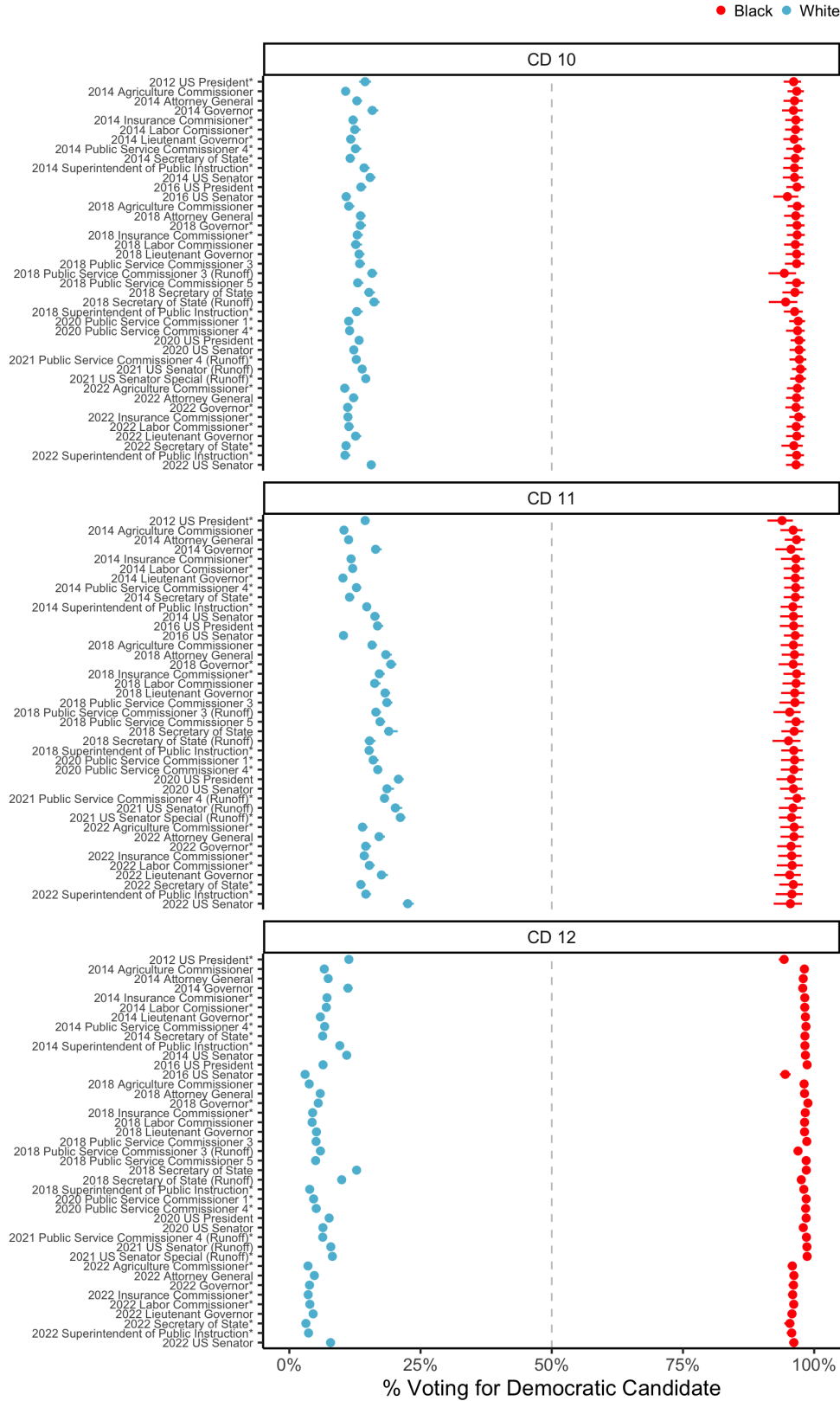


Figure 6: Ecological Inference Results — Enacted Congressional Districts (Historical Elections, Two-Party Vote Shares)



Figure 7: Ecological Inference Results — Enacted Congressional Districts (Historical Elections, Two-Party Vote Shares)

State Senate Districts

38. I was asked to examine enacted State Senate districts (SDs) that meaningfully overlapped with any focus illustrative SDs drawn by the plaintiffs' expert Moon Duchin. Therefore, I examine enacted SDs whose areas are comprised of 10% or more of an illustrative SD. Specifically, I analyze SDs 9, 16, 17, 22, 23, 25, 26, 28, 34, 35, 40, 41, 43, 44 and 55. Figure 8 presents a map of SDs in Georgia, with the districts in question shaded in dark gray. The SDs I am considering stretch in an almost contiguous band from west Georgia through Metro Atlanta to the eastern part of the state.

39. Of these districts, I have been asked to examine the extent of RPV between Black and Hispanic voters on the one hand and White voters on the other hand in SDs 16, 22, 23, 25, 26 and 44.²³ In all other SDs, I examine RPV between Black and White voters.

40. Figures 9-12 present the results of the EI analysis. I include estimates for Hispanic voter behavior in those districts where I have been instructed to examine it, and I omit it for the other districts. SDs 16, 22, 23, 25, 26 and 44 exhibit clear evidence of RPV with Black and Hispanic voters cohering around minority candidates and White voters opposing them in every historical election

²³Since Hispanic voters comprise a small share of the electorate in many SDs, and the SDs sometimes contain a small number of precincts, when analyzing RPV with Hispanic voters I perform a statewide EI analysis to determine precinct-level estimates, then I aggregate the precinct-level estimates up to the district in question. Compared with an EI analysis restricted to a single district, this approach adds an assumption that racial group voting behavior outside of the district contains useful information about racial group voter behavior within the district. This is similar in nature to the maintained assumption in any district-level EI analysis that behavior in one precinct is informative about behavior in another.

with a minority candidate that I examine. SDs 9, 17, 28, 34, 35, 43 and 55 exhibit evidence of RPV between Black and White voters, again with Black voters cohering around the minority candidate and White voters opposing this candidate.

41. For SDs 40 and 41 the evidence is slightly less clear cut. In SD 41, White voters join Black voters in support for minority candidates more than half the time. In my judgment, there is not racially polarized voting in this district. Importantly, it is worth noting that SD 41's boundaries contain less than half of an Illustrative district.²⁴ On the other hand, in SD 40 White voters opposed minority candidates in all but a handful of elections. Given the overall record of historical elections, my assessment is that there is evidence of RPV in SD 40.

42. Aside from the above exceptions, there is evidence of racially polarized voting behavior between Black and White voters in every other State Senate district I analyzed. Black voters clearly supported the minority-preferred candidate in every election under study, including those elections with a minority candidate running. White voters opposed their candidate of choice. Similarly, in the districts where I have been asked to assess behavior among Hispanic voters, I find evidence of RPV with Black and Hispanic voters supporting the minority-preferred candidate and White voters opposing them in every election.

²⁴About 39.6% of Illustrative Map 1 SD 40 is contained in enacted SD 41.

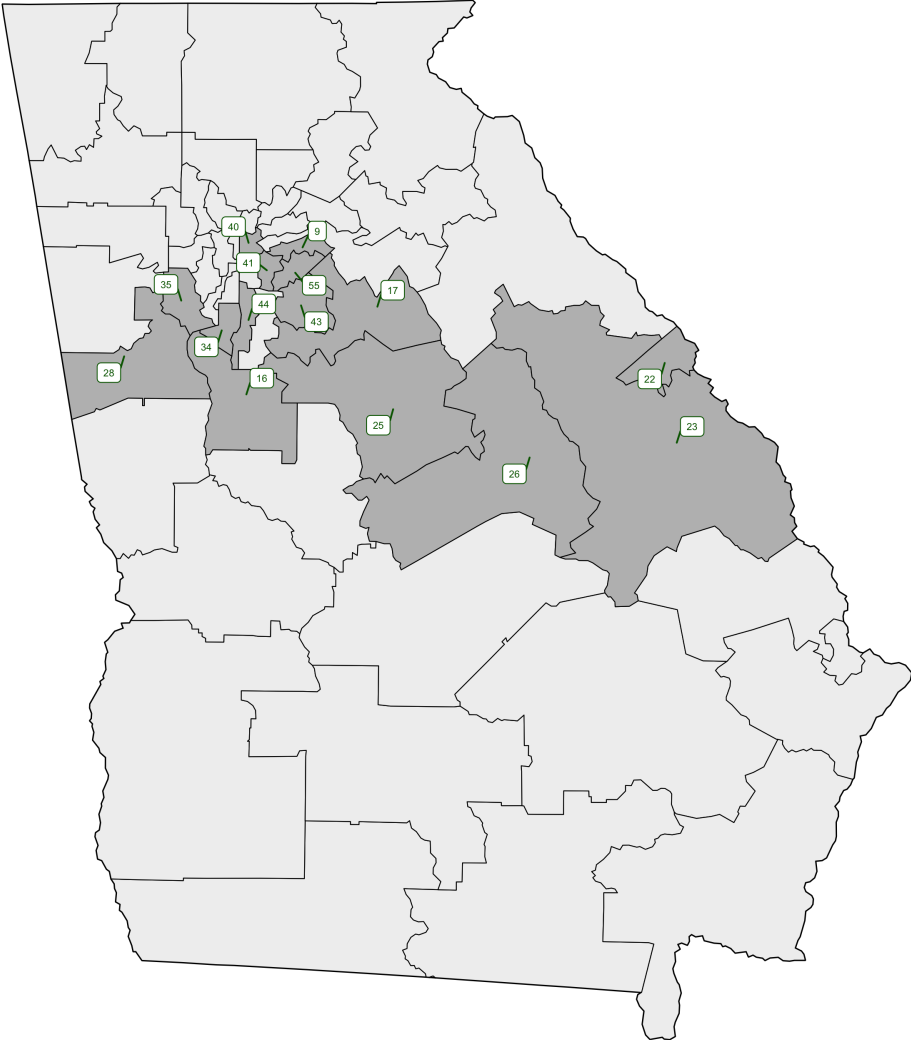


Figure 8: Map of Focus State Senate Districts

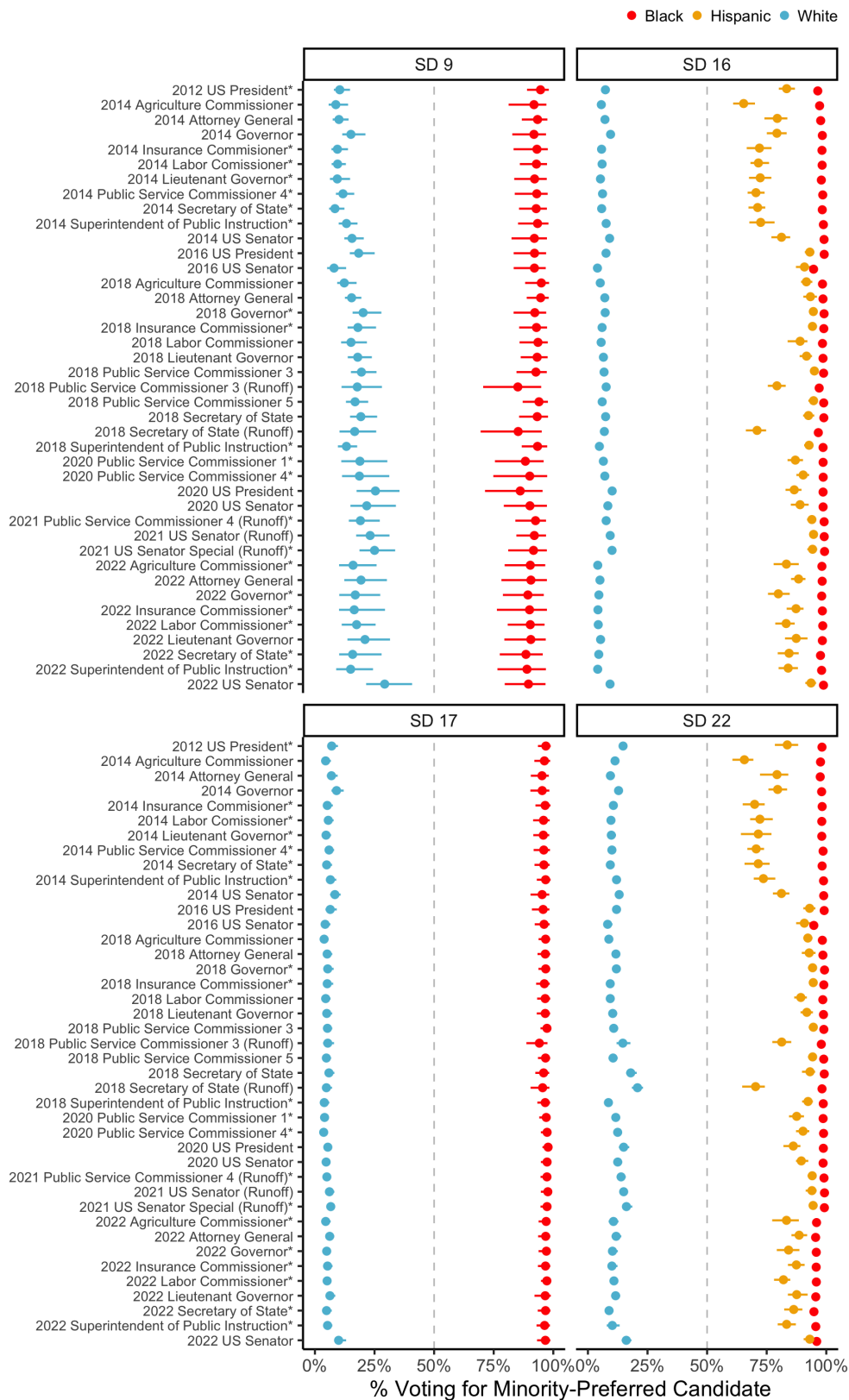


Figure 9: Ecological Inference Results — State Senate Districts (Historical Elections, Two-Party Vote Shares)

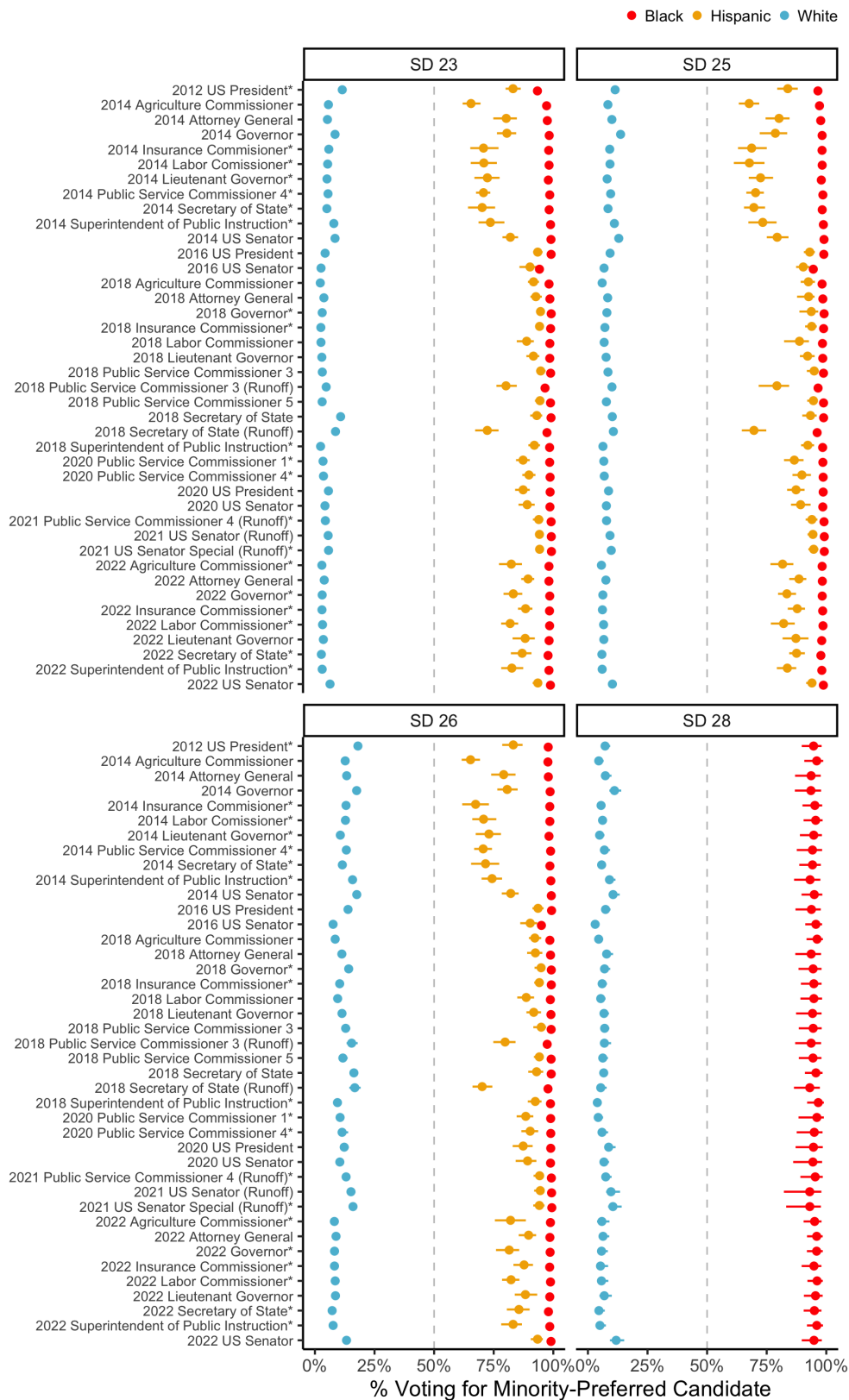


Figure 10: Ecological Inference Results — State Senate Districts (Historical Elections, Two-Party Vote Shares)



Figure 11: Ecological Inference Results — State Senate Districts (Historical Elections, Two-Party Vote Shares)



Figure 12: Ecological Inference Results — State Senate Districts (Historical Elections, Two-Party Vote Shares)

State House Districts

43. I was asked to examine enacted State House districts (LDs) that meaningfully overlapped with any focus illustrative LDs drawn by the plaintiffs' expert Moon Duchin. As before, I examine enacted LDs whose areas are comprised of 10% or more of an illustrative LD. Specifically, I analyze LDs 61, 64, 65, 66, 74, 78, 115, 116, 117, 140, 142, 143, 151, 154, 161, 163, 165 and 171. Figure 13 presents a map of LDs in Georgia, with the districts in question shaded in dark gray.

44. Of these districts, I have been asked to examine the extent of RPV between Black and Hispanic voters on the one hand and White voters on the other hand in LDs 161, 163 and 165.²⁵ In all other LDs, I examine RPV between Black and White voters.

45. Drawing conclusions from the EI analysis for the individual Georgia state House Districts can be slightly more challenging than for the other districts in the report since State House districts themselves are small and sometimes contain few precincts (e.g., less than fifteen). I have elected to report all results because with the Bayesian estimation methods used for EI they remain valid even for small samples; however, it is worth noting that some estimates will have wide confidence intervals, not necessarily due to voter behavior but simply because of the limited data available.

46. Figures 14-18 present the estimates for the House districts that I examine. LDs 61, 65, 74, 115, 142, 143, 151, 154 and 171 present clear evidence of RPV with Black voters selecting the minority candidates as their candidate of choice,

²⁵I use the same method as with the State Senate districts to perform this analysis.

and White voters opposing these candidates in every historical election. LDs 161, 163 and 165 similarly present clear evidence of RPV with Black and Hispanic voters cohering to select the minority candidates as their candidate of choice, and White voters opposing these candidates in every historical election.

47. Of these districts with Black and Hispanic voters cohering, LDs 163 and 165 occasionally see White voters join with minority voters to support a minority-preferred candidate; however, this happens rarely and in fact never occurs when a minority candidate runs for election against a non-minority candidate.

48. For LDs 78 and 117 there is some uncertainty in the estimates for subsets of elections, but on balance the estimates show that Black voters supported minority candidates and were opposed by White voters in a vast majority of historical elections. For LD 116, the estimates reflect some uncertainty in the behavior of White voters, but there is significant evidence of RPV in 65% of elections and there is evidence of RPV in all 2022 statewide elections.

49. To sum up, then, I observe RPV between Black and White voters in LDs 61, 65, 74, 78, 115, 116, 117, 142, 143, 151, 154 and 171 and between Black and Hispanic voters on the one hand and White voters on the other in LDs 161, 163 and 165.

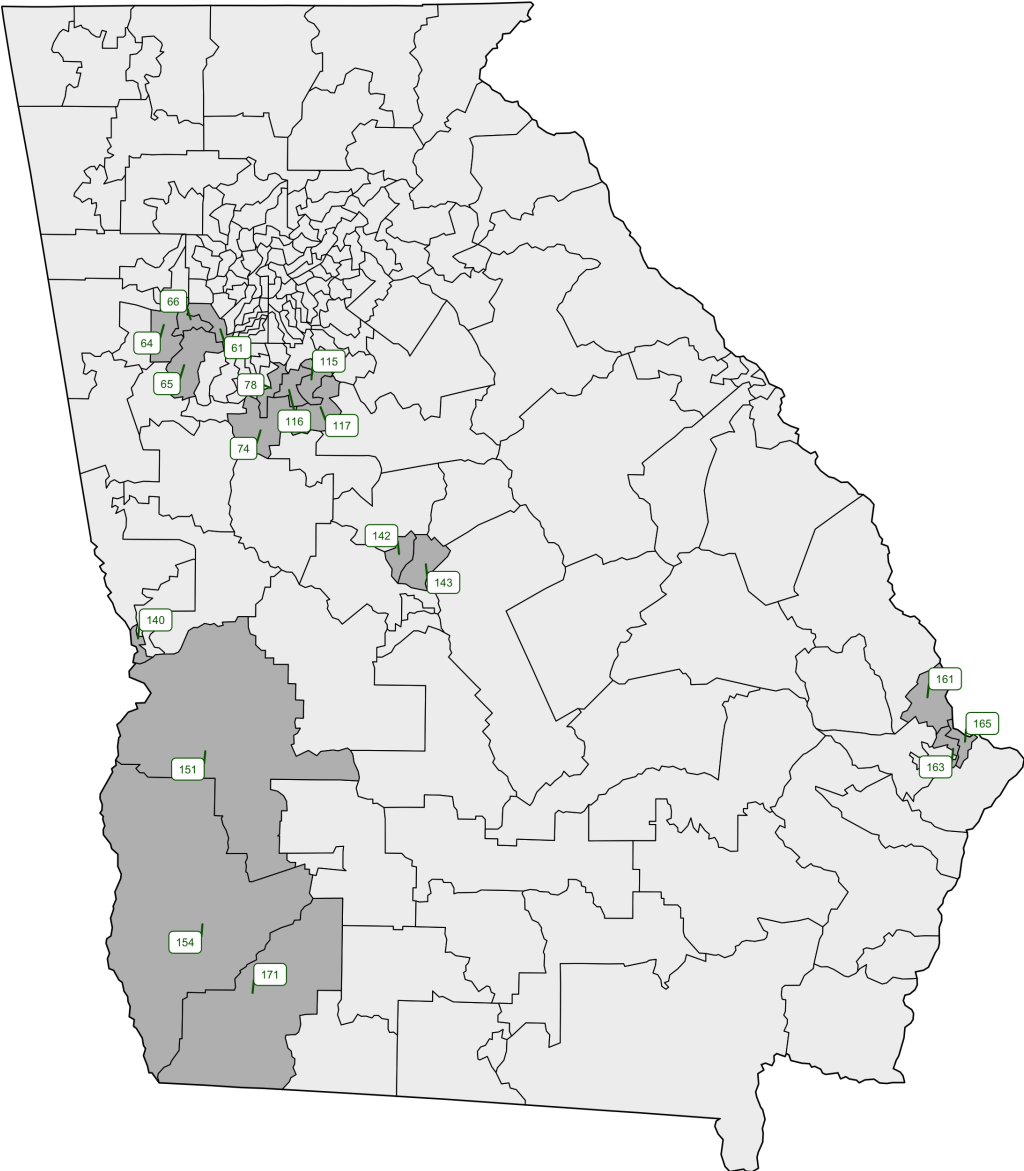


Figure 13: Map of Focus State House Districts

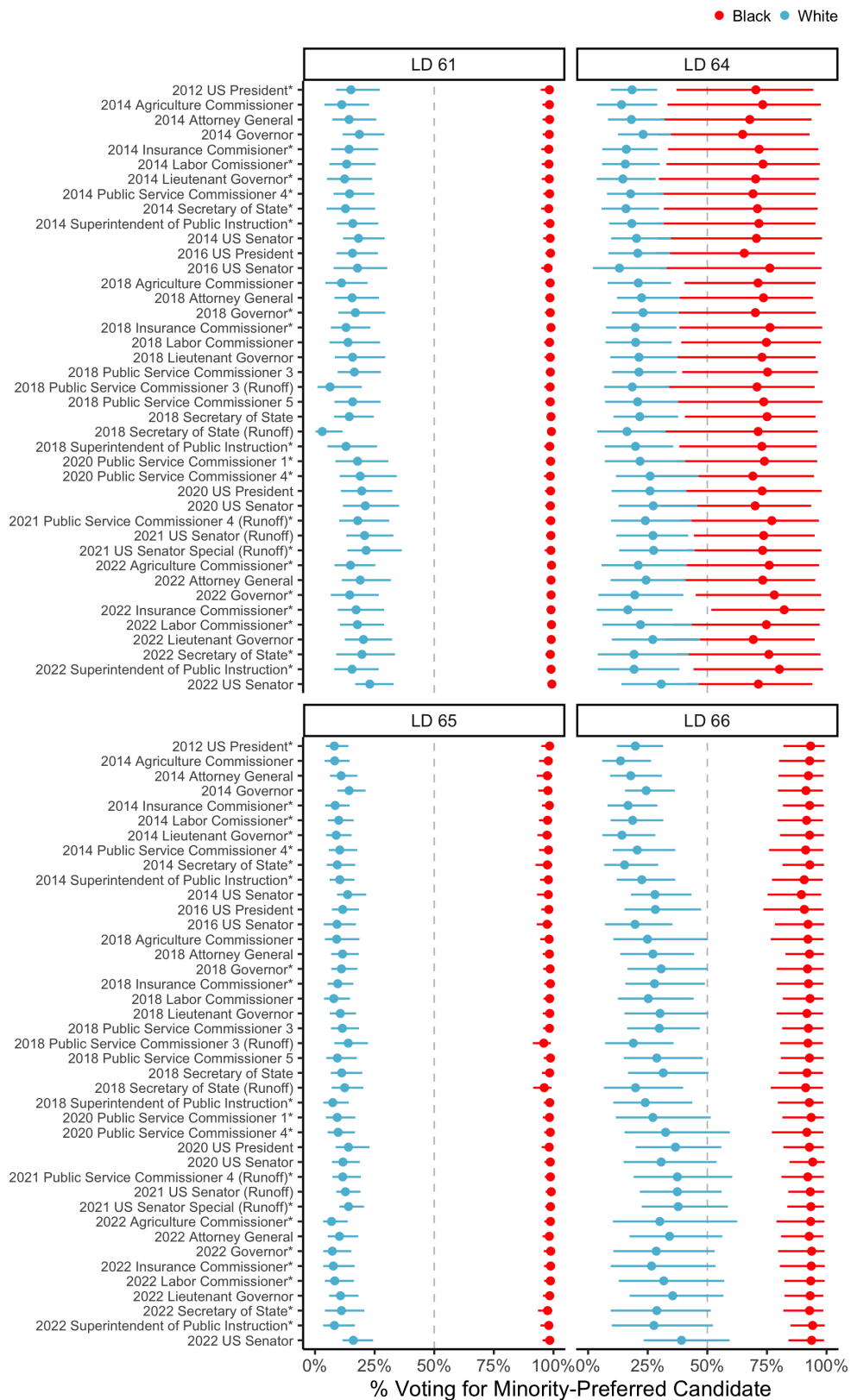


Figure 14: Ecological Inference Results — State House Districts (Historical Elections, Two-Party Vote Shares)

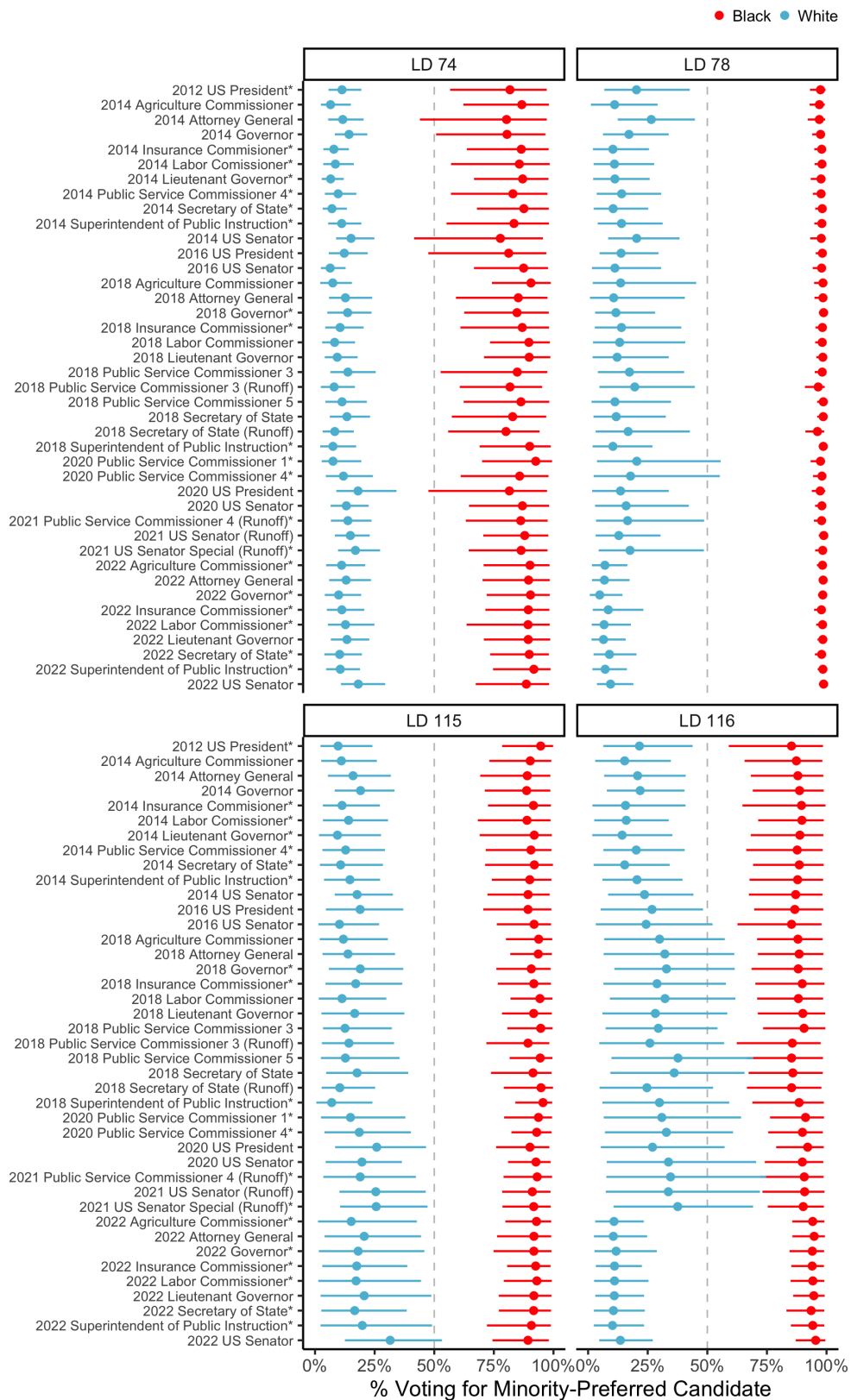


Figure 15: Ecological Inference Results — State House Districts (Historical Elections, Two-Party Vote Shares)

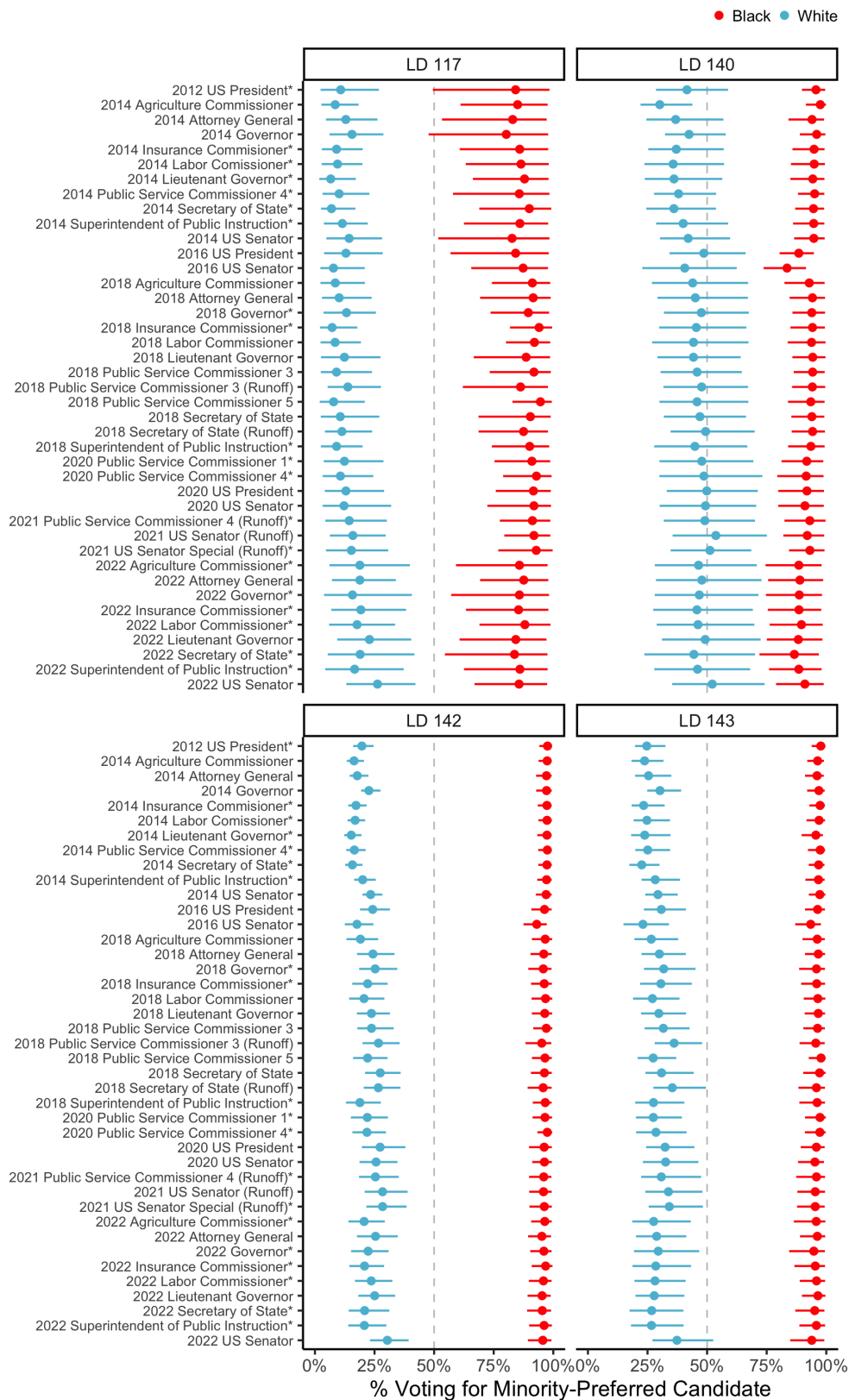


Figure 16: Ecological Inference Results — State House Districts (Historical Elections, Two-Party Vote Shares)



Figure 17: Ecological Inference Results — State House Districts (Historical Elections, Two-Party Vote Shares)



Figure 18: Ecological Inference Results — State House Districts (Historical Elections, Two-Party Vote Shares)

Clusters

50. I have also been asked to examine the extent of RPV in geographic clusters that were used as the starting point for drawing the plaintiffs' illustrative maps. Appendix Figure 30 depicts the geographic clusters given to me for the state Senate map. These clusters partition the state's Senate districts into the following broad geographic areas: Atlanta, East Black Belt, Gwinnett, Northwest, Southeast and Southwest. The plaintiffs' map-drawing expert Moon Duchin has created new illustrative Maps with districts focused in the Atlanta, East Black Belt and Gwinnett clusters. Therefore, I perform an EI analysis pooling the state Senate districts into these clusters. Figure 19 presents the results.

51. Across these clusters, I observe evidence of RPV between White and Black voters. For each cluster, Black voters cohesively support a candidate of choice and White voters oppose these candidates systematically. Furthermore, Hispanic voters tend to support the same candidates of choice as Black voters. In the Atlanta and Gwinnett clusters, Hispanic voters cohesively support the same candidate of choice as Black voters and the lower confidence interval on the vote share estimate does not overlap with the 50% threshold in all elections where a minority candidate runs against a non-minority candidate. In fact, the only exceptions are two runoff elections in 2018. In the East Black Belt cluster, Hispanic voters also systematically support the same candidates of choice as Black voters. The estimates for elections before 2016 tend to be more uncertain, with the confidence intervals including the 50% threshold; however,

since 2016 the estimates are more certain and we can conclude that Hispanic voters supported the same candidates of choice as Black voters. Thus, based on the historical elections observed and in particular those since 2016, I conclude that for each of these clusters Black and Hispanic voters vote cohesively for the same candidate of choice and White voters oppose this candidate.

52. I perform a similar exercise for State House districts. Appendix Figure 31 illustrates the geographic starting clusters for the map drawing exercise for state House districts. As before, these clusters partition the state's House districts into the following broad geographic areas: Atlanta, Cobb, DeKalb, East Black Belt, Gwinnett, Southeast and Southwest. Note that though some of the names for these clusters are identical to the cluster names for the state Senate districts, the boundaries differ. Of these clusters, Moon Duchin has drawn new districts focused on the Atlanta, Southwest, East Black Belt and Southeast clusters. As a result, I perform an EI analysis pooling the relevant state House Districts into these clusters. Figure 20 presents the results.

53. Again, I observe evidence of RPV between White and Black voters across all state House clusters I examine. Black voters cohesively support a candidate of choice and White voters oppose this candidate. Based on my estimates, this is true in every cluster and for every statewide election that I examine.

54. Hispanic voters join Black voters in supporting the same candidate of choice in each cluster. In Atlanta, this is true for all past statewide elections pitting a minority candidate against a non-minority candidate, with the confidence intervals never overlapping with the 50% threshold for these elections. For the

other House clusters, while there are some uncertainties, my estimates again suggest that Hispanic voters supported the same candidates as Black voters in all of the past statewide elections that I examine.

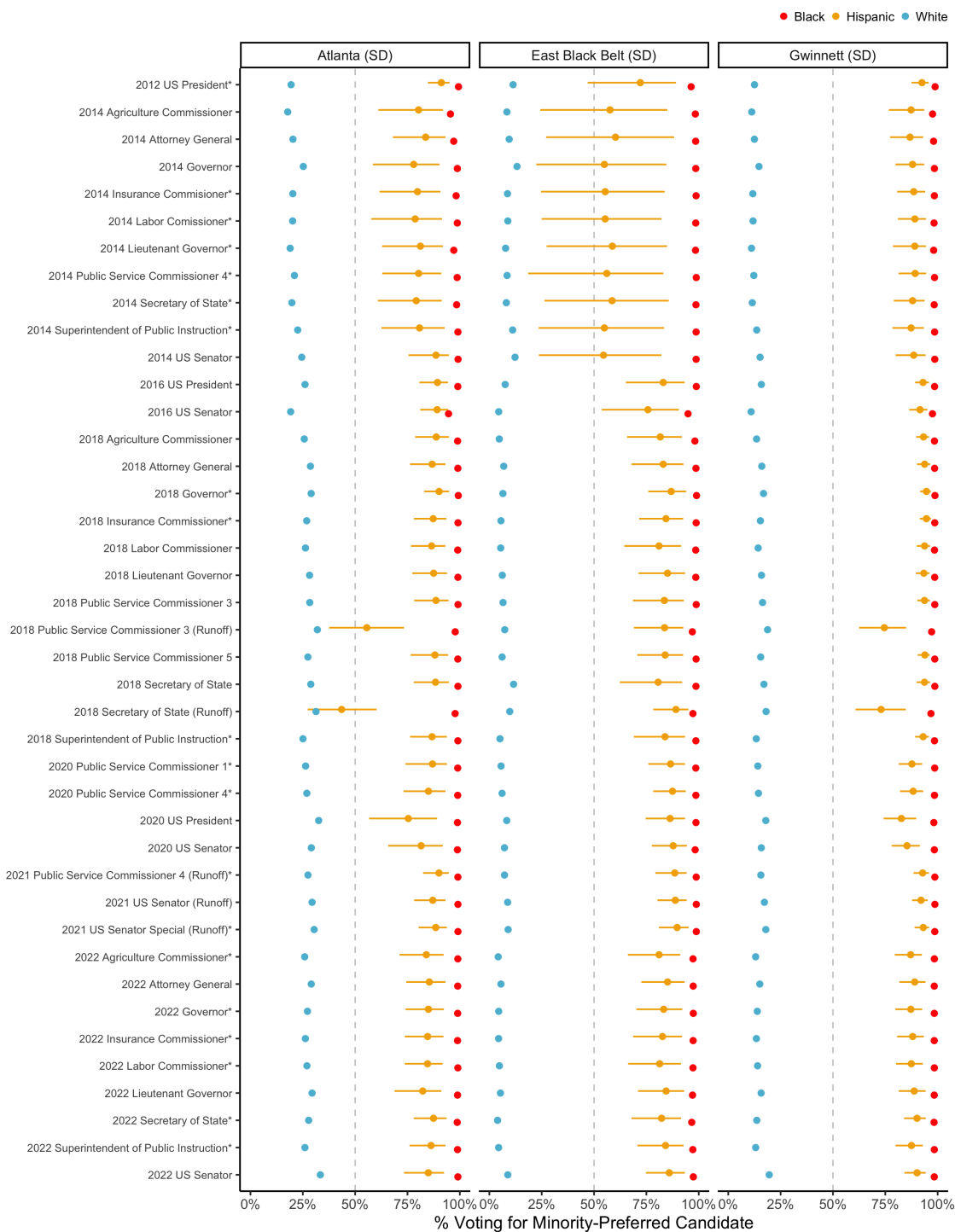


Figure 19: Ecological Inference Results — State Senate Clusters (Historical Elections, Two-Party Vote Shares)

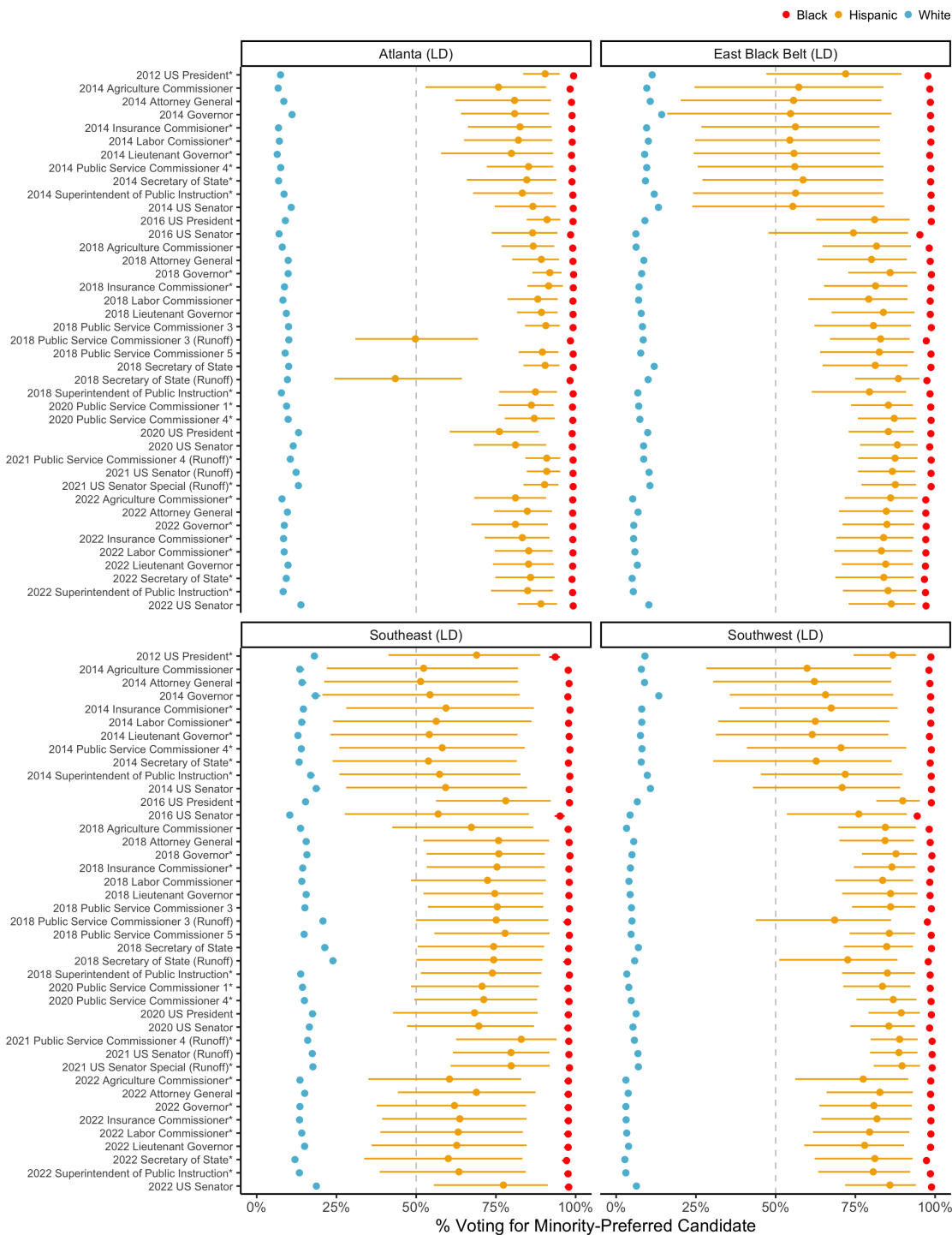


Figure 20: Ecological Inference Results — State House Clusters (Historical Elections, Two-Party Vote Shares)

Performance Analysis of Enacted Districts

55. I now examine the electoral performance of the enacted congressional districts along with the focus enacted state Senate and enacted state House districts. The previous analysis established that in Georgia, in those instances where one minority candidate runs for office and there is racially polarized voting, the candidate of choice for minority voters has historically been the minority candidate. As a result, I use historical election data to examine whether the enacted districts appear to offer minority voters an opportunity to elect their candidates of choice.

Congressional Districts

56. Table 2 presents the 2020 and 2022 share of the electorate for each minority group under consideration, along with several key summary statistics for district-wide electoral performance. To analyze district performance in terms of the ability to elect minority-preferred candidates, I examine the 20 statewide elections considered in this report in which a racial minority candidate ran against a non-minority candidate since 2012. Table 10 in the Appendix denotes these elections with a star and reports the names of these candidates. I report the mean two-party minority-preferred candidate vote share across all elections with a minority candidate that I examined. I also report the lowest vote share received by a minority candidate, in order to provide a sense of a lower bound of electoral performance. Finally, based on the historical elections, I report the share of elections in which minority candidates would have earned a

majority of the two-party vote in the district, along with the share of elections in which minority candidates would have earned over 55% of the vote, which is a conventional cutoff used in voting rights litigation to indicate a safer district.

57. In CDs 4 and 13, Black voters comprise a majority (or near-majority) of the electorate and, based on historical elections, these voters would be able to elect their candidates of choice if conditions in the districts remain similar. Minority-preferred candidates earned a majority of the two-party vote share in each election I examined for these districts, and the vote share surpassed 55% in every election in CDs 4 and 13.

58. In CDs 1, 3, 6, 8, 9, 10, 11, 12 and 14, White voters comprise a strong majority of the electorate. If conditions remain similar to historical elections, minority voters who preferred a minority candidate would not be able to elect that candidate: the minority-preferred candidate did not win in **any** of the historical elections I examine for these districts.

59. CD 7 is a multi-racial district in which no one racial group comprises a majority of the electorate. Based on historical elections, minority candidates in these statewide elections would have received a majority in the district 65.0% of the time. Candidates won “safely” (e.g., over 55% of the vote) at the same rate. Given the demographic composition of the district, and the fact that the previous RPV analysis showed strong evidence of Black voters cohesively supporting minority candidates, this is a district that could perform more strongly than it does as drawn (in terms of allowing minority voters to elect their candidates of choice).

60. CD 2 is split close to evenly between Black and White voters. In 2022, White voters comprised 56% of the electorate, and Black voters comprised 37%. Black voters retained the ability to elect candidates of choice in this district, with that candidate winning every statewide election I examined in this district.

61. CD 5 did not exhibit RPV in the previous analysis. White voters have historically voted along with minority voters to select minority voters' candidates of choice.

62. Overall, then, minority voters have a very strong chance of electing preferred candidates in three of fourteen congressional districts (CDs 4, 5 and 13). Minority voters have a chance of electing minority candidates slightly more than half the time in CDs 2 and 7. Finally, based on historical elections, minority voters have close to no chance of electing preferred candidates in the remaining nine congressional districts.

Table 2: Performance Analysis (Elections with a Minority Candidate), Enacted CDs

CD	Black 2020	Black 2022	Hispanic 2020	Hispanic 2022	Mean M Vote	Min M Vote	M Wins	M Over 55%
1	24.3%	23.5%	2.0%	1.6%	41.0%	39.0%	0.0%	0.0%
2	44.6%	36.9%	1.3%	0.9%	51.7%	44.4%	70.0%	25.0%
3	18.8%	23.2%	1.9%	1.8%	32.9%	28.1%	0.0%	0.0%
4	50.9%	46.7%	2.5%	2.1%	74.1%	69.0%	100.0%	100.0%
5	40.4%	38.2%	2.4%	2.3%	79.0%	73.9%	100.0%	100.0%
6	7.3%	7.2%	3.5%	3.2%	33.1%	24.1%	0.0%	0.0%
7	29.3%	27.4%	7.5%	5.5%	54.1%	43.4%	65.0%	60.0%
8	25.0%	24.0%	1.5%	0.9%	33.6%	31.3%	0.0%	0.0%
9	8.5%	9.7%	4.7%	3.3%	26.2%	21.4%	0.0%	0.0%
10	18.6%	17.9%	2.3%	2.0%	34.6%	30.8%	0.0%	0.0%
11	14.6%	13.4%	4.0%	3.2%	35.6%	28.1%	0.0%	0.0%
12	31.7%	28.1%	1.5%	1.3%	41.1%	37.5%	0.0%	0.0%
13	63.7%	63.4%	3.3%	2.4%	77.7%	71.8%	100.0%	100.0%
14	13.1%	14.0%	3.8%	2.4%	29.5%	27.8%	0.0%	0.0%

Note: This table reports the share of the electorate, based on 2020 and 2022 turnout, of each minority racial group in a given congressional district along with the mean and minimum minority candidate vote share (labelled M) in the district across statewide elections with a minority candidate since 2012.

State Senate Districts

63. In the state Senate districts under consideration, there appears to be only a handful of competitive districts. Most either offer no chance for the election of minority-preferred candidates or are, on the other hand, clear minority majority districts. Based on historical elections, the candidate preferred by minority voters would not have won in any election I examine between 2012 and 2022 in SDs 16, 17, 23, 25 and 28. Conversely, in SDs 22, 26, 34, 35, 41, 43, 44 and 55 the minority-preferred candidate would have won in all past elections I examine.

64. SDs 9 and 40 are the only focus districts with some evidence of possibly meaningful electoral competition. SD 9 is a multi-racial district that has elected minority voters' candidates of choice slightly more than half of the time. SD 40, a district with a majority White electorate, has performed similarly in past elections.

Table 3: Performance Analysis (Elections with a Minority Candidate), Enacted SDs

SD	Black 2020	Black 2022	Hispanic 2020	Hispanic 2022	Mean M Vote	Min M Vote	M Wins	M Over 55%
9	28.5%	28.8%	7.4%	5.9%	51.6%	38.8%	65.0%	60.0%
16	18.0%	26.3%	1.9%	1.9%	33.8%	26.8%	0.0%	0.0%
17	26.2%	24.4%	1.8%	1.7%	35.1%	29.3%	0.0%	0.0%
22	55.3%	51.8%	1.5%	1.2%	66.5%	62.6%	100.0%	100.0%
23	31.8%	26.1%	1.6%	1.4%	38.6%	34.0%	0.0%	0.0%
25	28.8%	27.5%	1.3%	0.8%	37.9%	35.6%	0.0%	0.0%
26	54.5%	44.3%	0.9%	0.8%	60.6%	52.3%	100.0%	70.0%
28	15.0%	24.8%	2.4%	1.7%	31.3%	24.6%	0.0%	0.0%
34	68.4%	68.6%	3.4%	2.6%	81.7%	76.8%	100.0%	100.0%
35	67.1%	68.5%	2.4%	1.6%	79.2%	71.5%	100.0%	100.0%
40	16.0%	13.9%	5.0%	4.1%	53.6%	42.5%	65.0%	65.0%
41	55.6%	51.1%	2.2%	1.9%	78.7%	73.9%	100.0%	100.0%
43	60.5%	60.1%	1.9%	1.4%	70.2%	62.9%	100.0%	100.0%
44	68.3%	67.3%	2.9%	2.2%	86.2%	82.1%	100.0%	100.0%
55	61.5%	58.6%	3.2%	2.3%	74.9%	69.0%	100.0%	100.0%

Note: This table reports the share of the electorate, based on 2020 and 2022 turnout, of each minority racial group in a given State Senate district along with the mean and minimum minority candidate vote share (labelled M) in the district across statewide elections with a minority candidate since 2012.

State House Districts

65. Based on historical elections, the candidate preferred by minority voters would not have won in any election I examine between 2012 and 2022 in LDs 16, 17, 23, 25 and 28. Conversely, in LDs 22, 26, 34, 35, 41, 43, 44 and 55 the minority-preferred candidate would have won in all past elections I examine.

66. LDs 115, 117, 151 and 154 are the only (possibly) competitive districts among the examined state House districts. The electorate for LD 151 is split roughly evenly between White and Black voters. Based on historical elections, the minority candidate of choice would have garnered a majority of the vote in this district in 65.0% of historical elections I examine. However, this does not appear to be a safe district by any means. In only 5.0% of elections was the margin at the level to call the district safe (e.g., over 55% of the two-party vote).

67. In LD 117, based on historical elections, minority voters are just now beginning to be able to elect minority-preferred candidates. Only in the three 2021 runoff elections and the 2022 general elections did minority candidates garner more than half the vote in this district, and in no cases was the margin of victory safe for the candidate of choice.

68. LDs 115 and 154 each offer minority voters the opportunity to elect minority candidates a bit more than half of the time based on historical elections.

Table 4: Performance Analysis (Elections with a Minority Candidate), Enacted LDs

LD	Black 2020	Black 2022	Hispanic 2020	Hispanic 2022	Mean M Vote	Min M Vote	M Wins	M Over 55%
61	70.6%	74.9%	2.1%	1.1%	84.3%	78.9%	100.0%	100.0%
64	26.8%	27.3%	3.2%	3.2%	38.0%	30.6%	0.0%	0.0%
65	54.2%	53.4%	1.8%	1.4%	67.5%	62.8%	100.0%	100.0%
66	50.9%	52.7%	3.3%	2.4%	63.5%	52.7%	100.0%	75.0%
74	21.2%	23.1%	2.2%	1.9%	32.6%	25.9%	0.0%	0.0%
78	67.9%	63.4%	3.2%	2.4%	78.4%	73.9%	100.0%	100.0%
115	45.5%	47.4%	2.7%	2.0%	55.8%	45.8%	65.0%	65.0%
116	52.5%	45.1%	2.9%	2.0%	59.5%	50.4%	100.0%	65.0%
117	34.5%	35.4%	2.4%	1.6%	42.8%	32.5%	10.0%	0.0%
140	58.6%	59.2%	2.4%	1.1%	75.2%	70.3%	100.0%	100.0%
142	53.9%	51.2%	0.8%	0.6%	62.0%	56.8%	100.0%	100.0%
143	58.3%	57.0%	0.9%	0.7%	70.2%	67.6%	100.0%	100.0%
151	44.3%	29.7%	0.9%	0.8%	46.8%	35.4%	65.0%	5.0%
154	49.8%	42.5%	0.4%	0.3%	52.5%	44.5%	70.0%	45.0%
161	22.4%	19.5%	3.1%	2.3%	34.1%	27.9%	0.0%	0.0%
163	42.8%	39.3%	1.8%	1.4%	67.4%	60.4%	100.0%	100.0%
165	54.5%	29.5%	1.2%	1.2%	72.0%	57.1%	100.0%	100.0%
171	32.4%	29.5%	1.0%	0.6%	38.0%	33.3%	0.0%	0.0%

Note: This table reports the share of the electorate, based on 2020 and 2022 turnout, of each minority racial group in a given State House district along with the mean and minimum minority candidate vote share (labelled M) in the district across statewide elections with a minority candidate since 2012.

EI Analysis of Illustrative Districts

69. I now turn to an EI analysis of the Illustrative Maps drawn by the plaintiffs' map-drawing expert Moon Duchin.

Congressional Districts

70. I have been instructed to analyze all congressional districts for RPV between Black and White voters in the Illustrative Map drawn by Moon Duchin. Appendix Figure 32 depicts the map of these illustrative districts.

71. Figures 21-25 report the results for my EI analysis. The results are quite straightforward. Illustrative CD 4 does not exhibit evidence of RPV between Black and White voters. In all other districts, there is essentially universal evidence of RPV between Black and White voters. In these districts, when a minority candidate runs Black voters support them and White voters oppose this candidate. In elections between no minority candidates or two minority candidates, Black voters support the minority-preferred candidate and White voters oppose them.

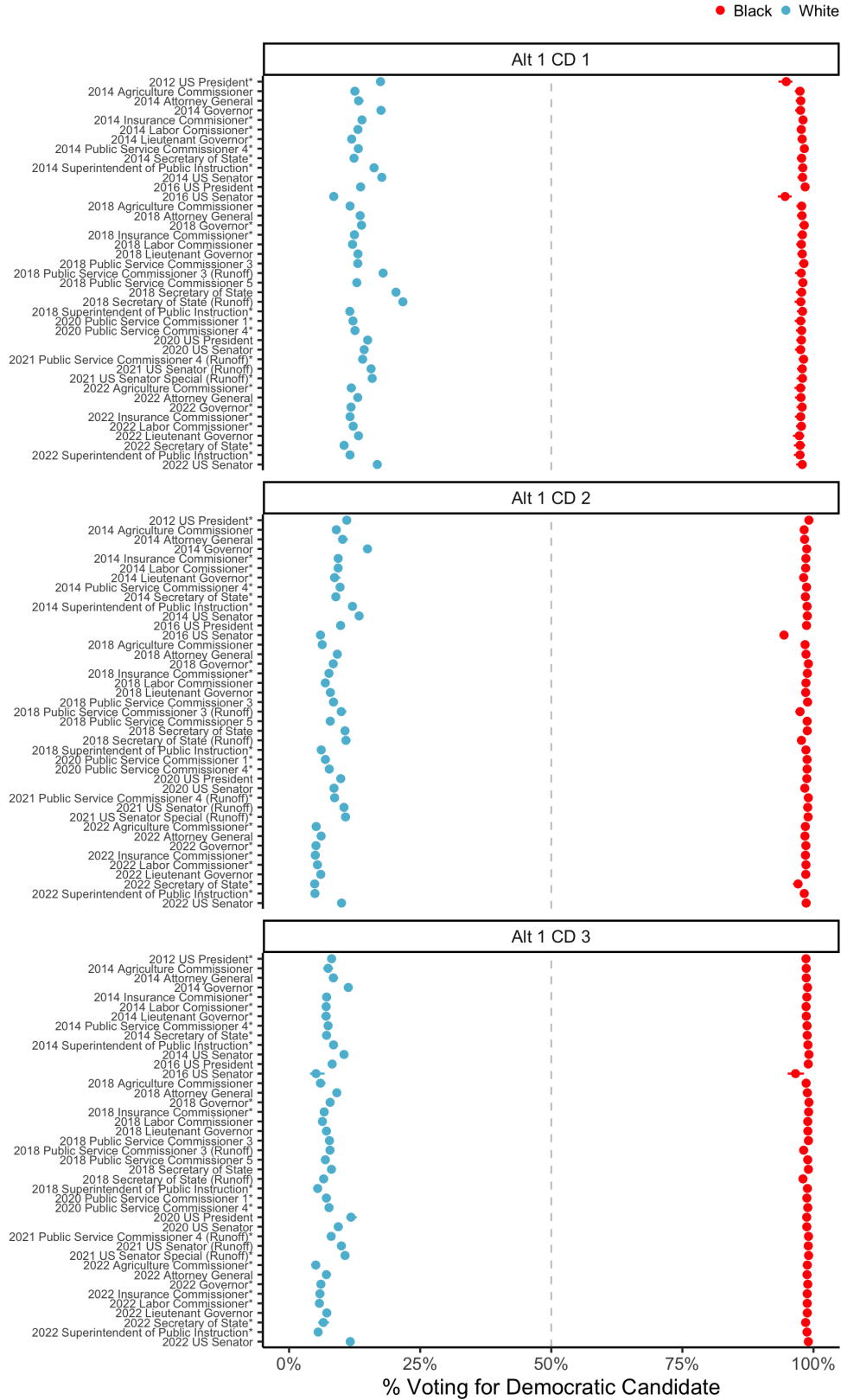


Figure 21: Ecological Inference Results — Illustrative Congressional Districts (Historical Elections, Two-Party Vote Shares)

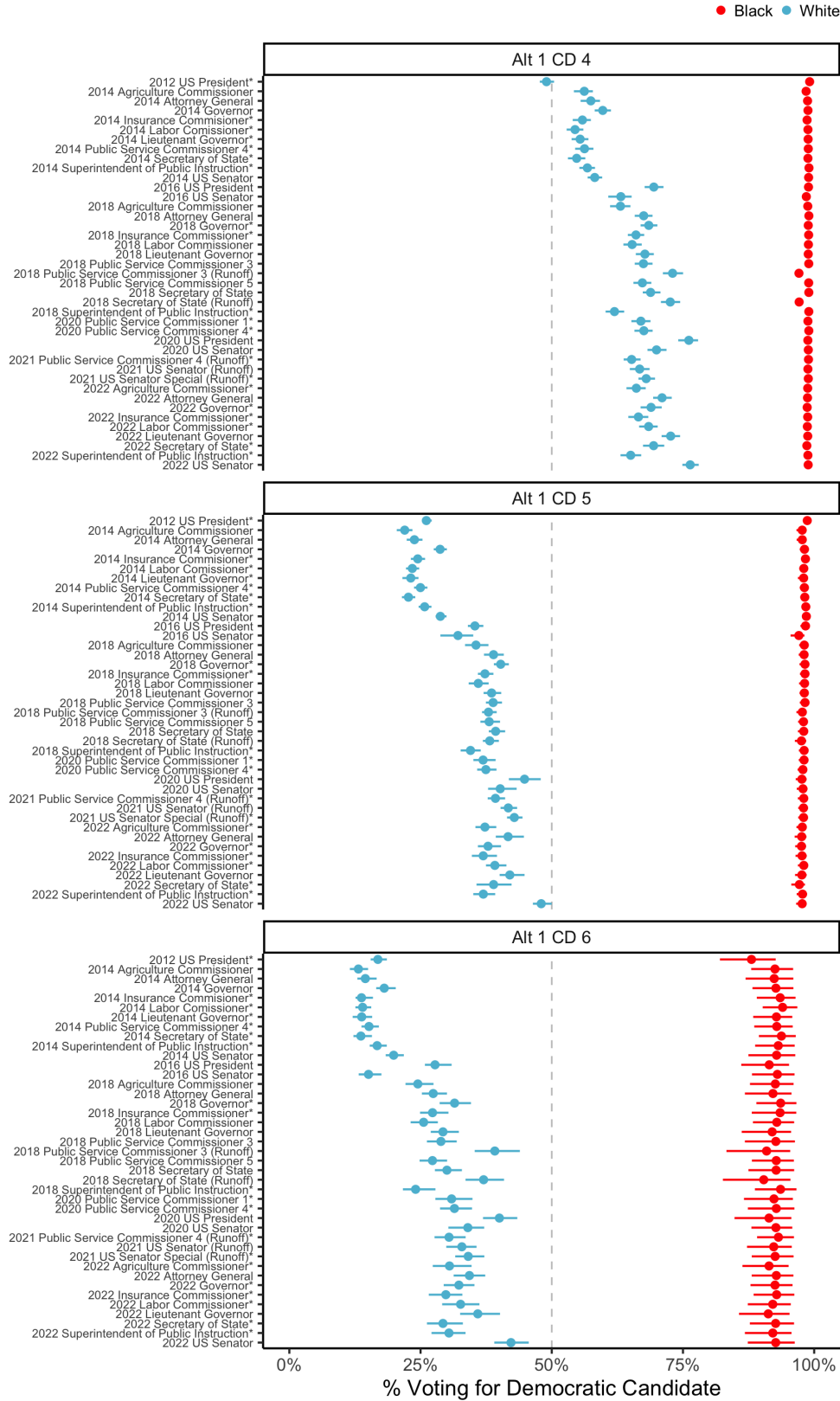


Figure 22: Ecological Inference Results — Illustrative Districts (Historical Elections, Two-Party Vote Shares)

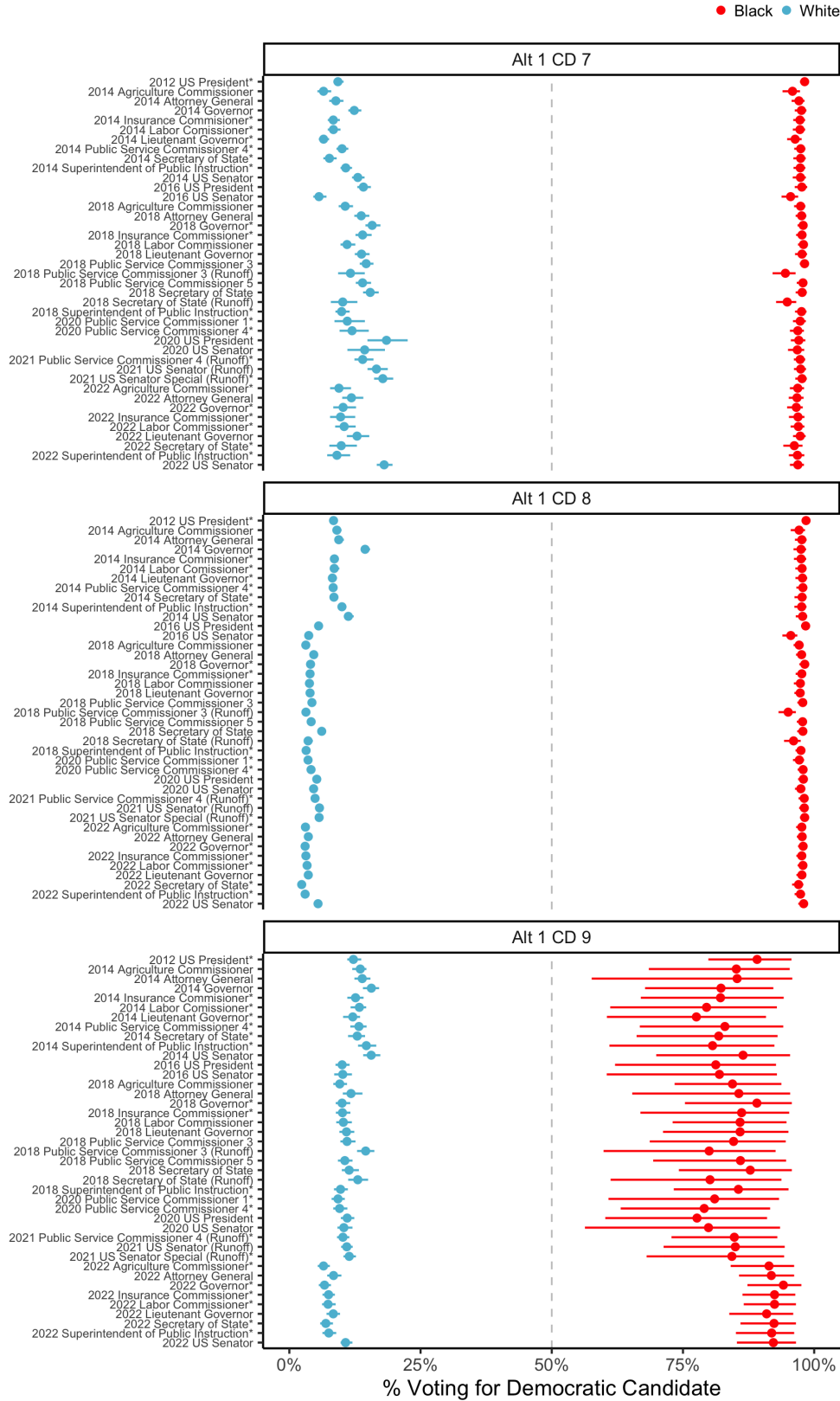


Figure 23: Ecological Inference Results — Illustrative Congressional Districts (Historical Elections, Two-Party Vote Shares)

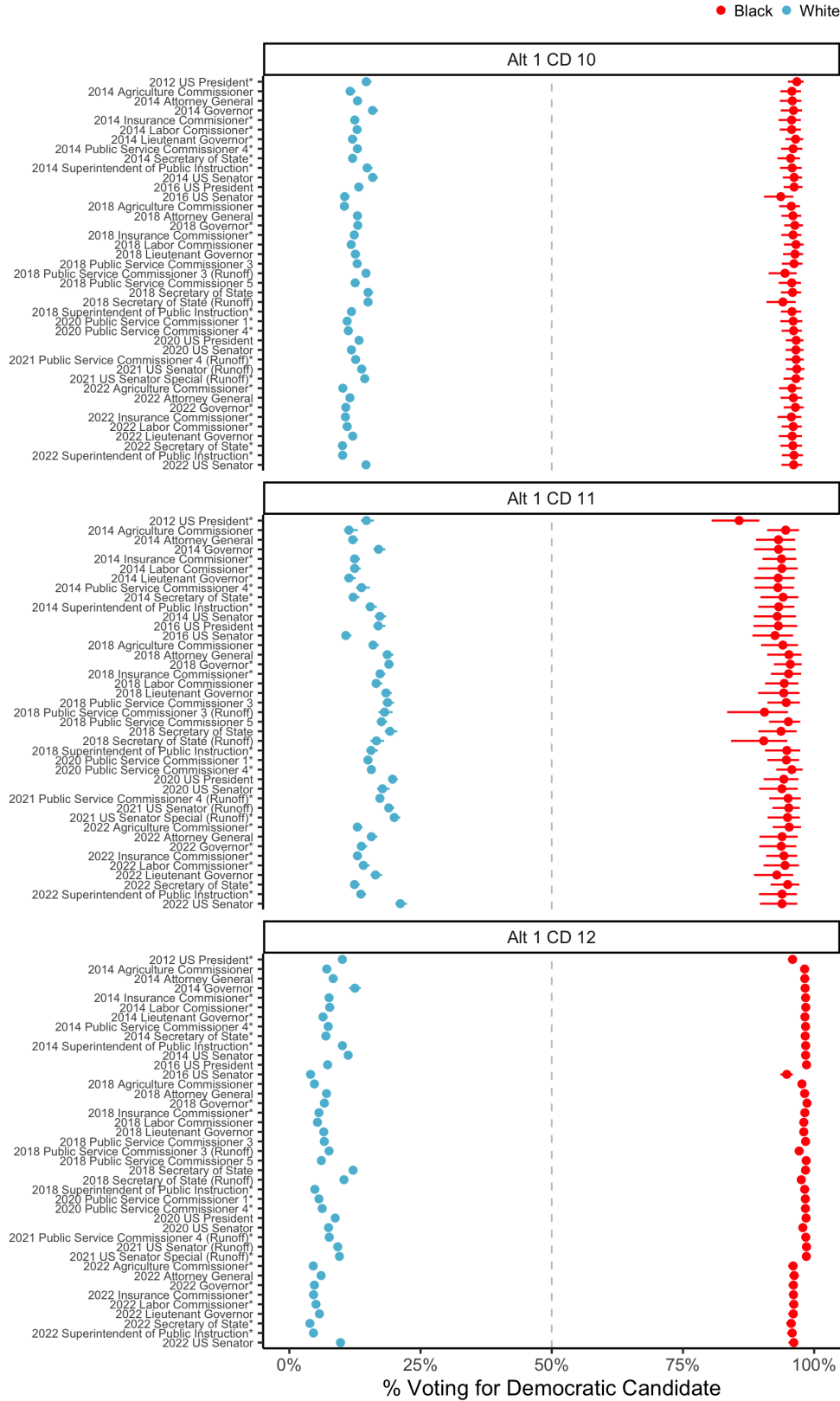


Figure 24: Ecological Inference Results — Illustrative Congressional Districts (Historical Elections, Two-Party Vote Shares)



Figure 25: Ecological Inference Results — Illustrative Congressional Districts (Historical Elections, Two-Party Vote Shares)

State Senate Districts

72. I consider two Illustrative Maps of alternative State Senate Districts, and I apply the same methods of ecological inference as for the enacted map. Appendix Figures 33 and 34 depict the Illustrative State Senate maps, with the districts I have been instructed to focus upon highlighted.

73. I have been instructed to examine RPV for Black versus White voters in Illustrative Map 1 SDs 16, 17, 25, 28 and 40. I have been instructed to examine RPV for Black and Hispanic versus White voters in Illustrative Map 2 SDs 16 and 23.

74. Figure 26 reports the EI results for Illustrative State Senate Map 1, and Figure 27 reports the results for Illustrative State Senate Map 2.

75. For Map 1, I observe evidence of RPV between Black and White voters across all past statewide elections with a minority candidate running for SDs 16, 17, 25 and 28. In Illustrative Map 1 SD 40, I observe RPV 50% of the time in elections where a minority candidate ran. Furthermore, I observe evidence of RPV between Black and White voters in a majority (though not all) of elections with a minority-preferred candidate running.

76. For Map 2, I observe evidence of RPV with Black and Hispanic voters supporting minority candidates and White voters opposing them across all past statewide elections with a minority candidate running. When a minority candidate does not run, Black and Hispanic voters support the same minority-preferred candidate and White voters oppose this candidate.

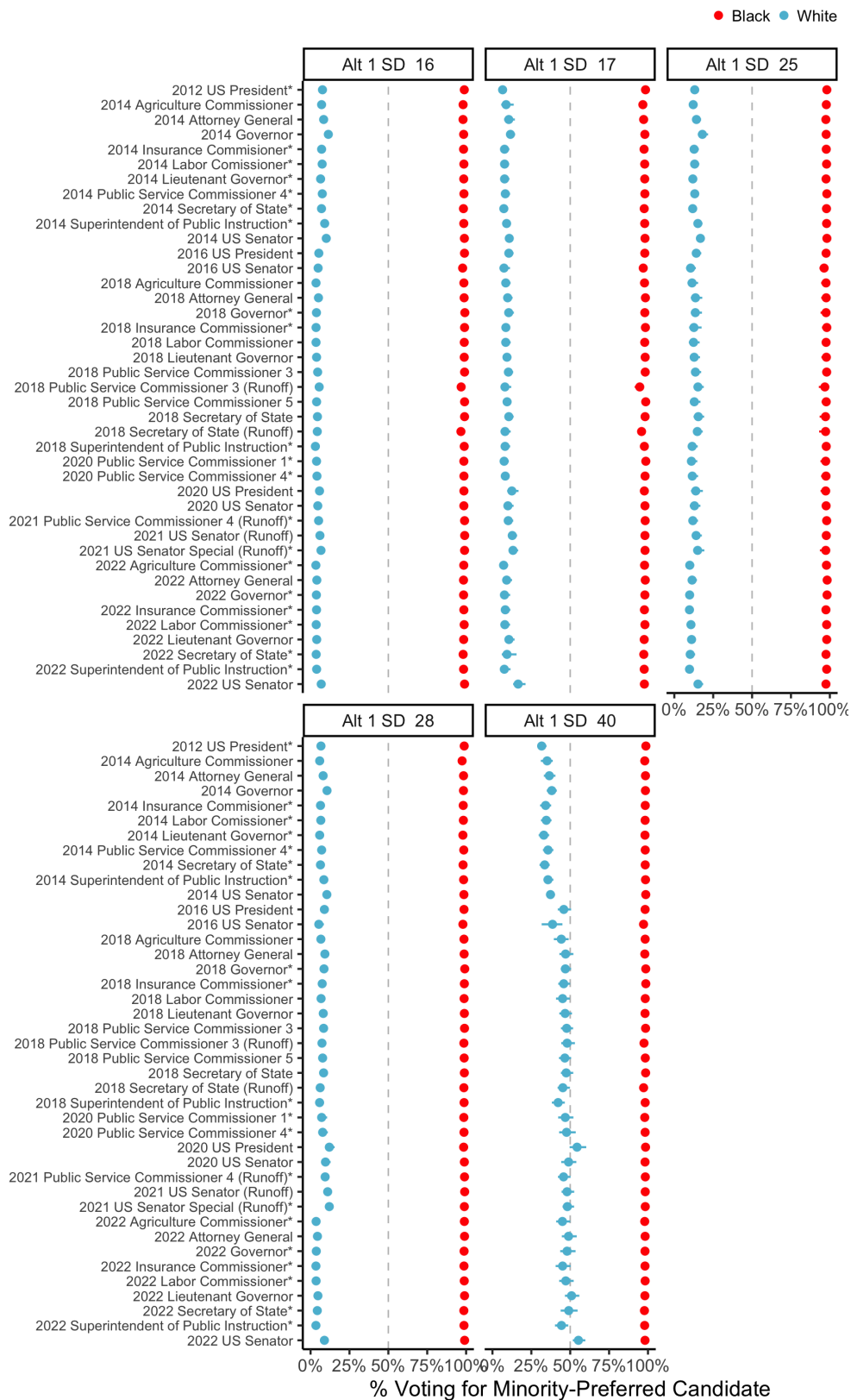


Figure 26: Ecological Inference Results — Illustrative Map 1 State Senate Districts (Historical Elections, Two-Party Vote Shares)

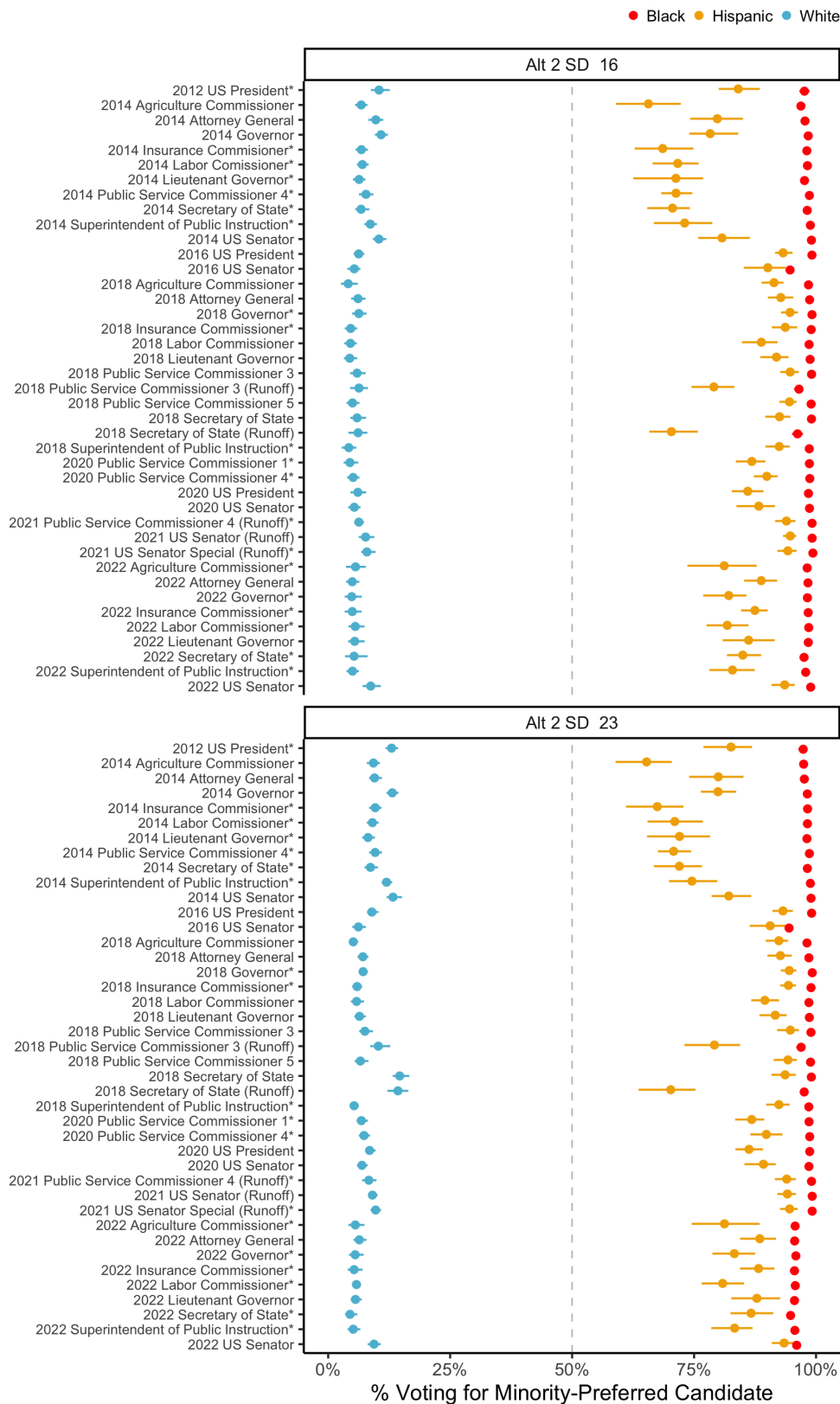


Figure 27: Ecological Inference Results — Illustrative Map 2 State Senate Districts (Historical Elections, Two-Party Vote Shares)

State House Districts

77. I also consider two Illustrative Maps of alternative State House Districts, and I apply the same methods of ecological inference as I did for the enacted map. Appendix Figures 35 and 36 depict the Illustrative State House maps, with the districts I have been instructed to focus upon highlighted.

78. I have been instructed to examine RPV for Black versus White voters in Illustrative Map 1 LDs 64, 74, 117, 144, 151 and 171 and for Black, Hispanic and White voters in Illustrative Map 1 LD 161. For Illustrative Map 2, I have been instructed to examine RPV for Black versus White voters in LDs 64, 117 and 144 and for Black, Hispanic and White voters in LD 161.

79. Figure 28 reports the results for Illustrative State House Map 1, and Figure 29 reports the results for Illustrative State House Map 2.

80. For Illustrative Map 1, I observe evidence of RPV between Black and White voters in all districts I have been asked to examine. Furthermore, in Illustrative Map 1 LD 161, where I also examine the behavior of Hispanic voters, I again observe RPV with Black and Hispanic voters supporting minority candidates and White voters opposing them.

81. For Illustrative Map 2, I again observe evidence of RPV between Black and White voters in all districts I examine. In LD 64, this occurs in every election. In LD 117, occasionally the confidence intervals on the estimates are wide enough to cross the 50% threshold but nonetheless, but even accounting for this Black voters support a minority candidate and White voters oppose them

in 95% of these elections. Similarly, in LD 144, Black voters support a minority candidate and White voters oppose them (with the confidence intervals on the estimates not overlapping with the 50% threshold) in 95% of such elections. Finally, in SD 161, I observe RPV with Black and Hispanic voters supporting a minority or minority-preferred candidate and White voters opposing them in all past elections that I study.

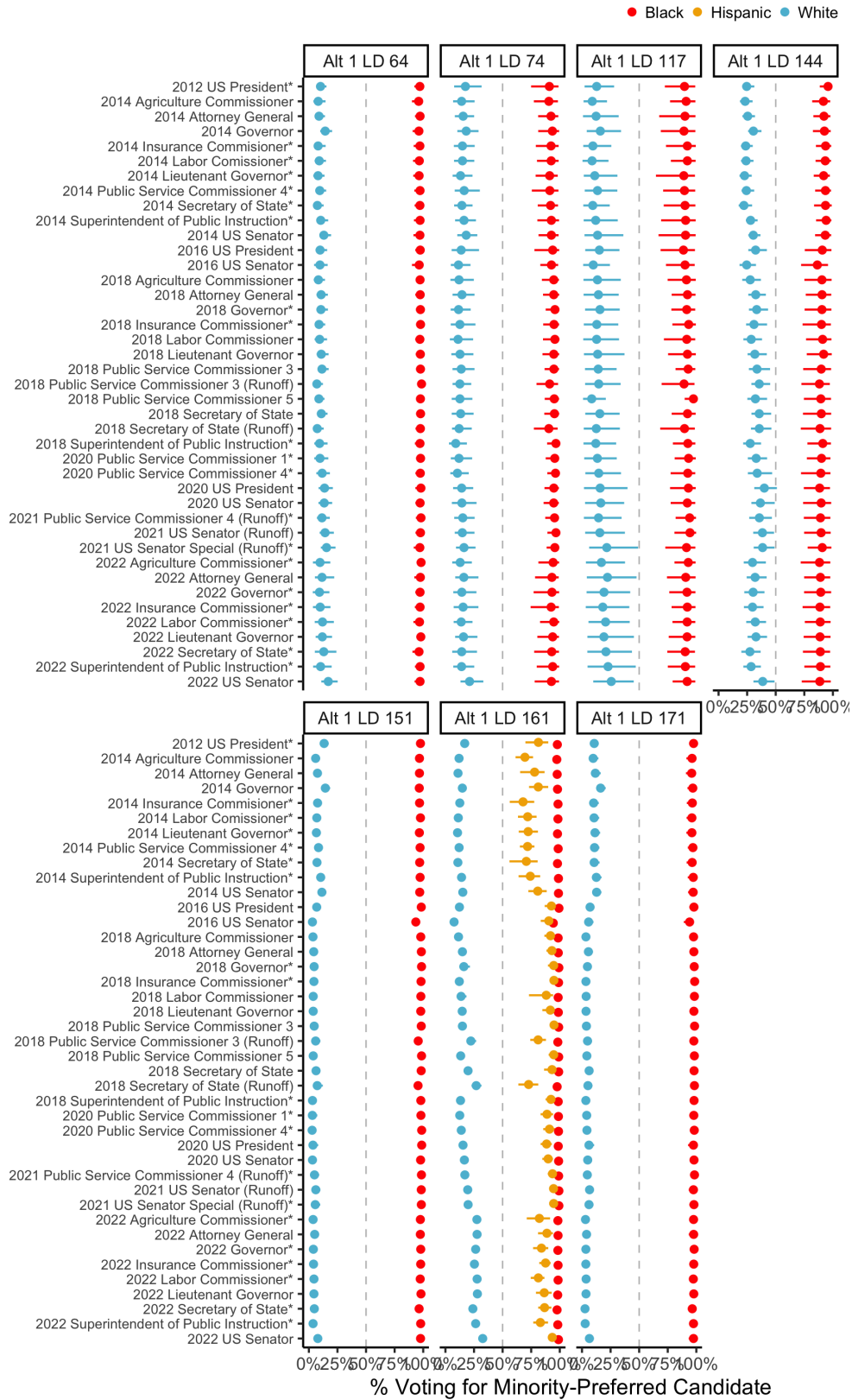


Figure 28: Ecological Inference Results — Illustrative Map 1 State House Districts (Historical Elections, Two-Party Vote Shares)

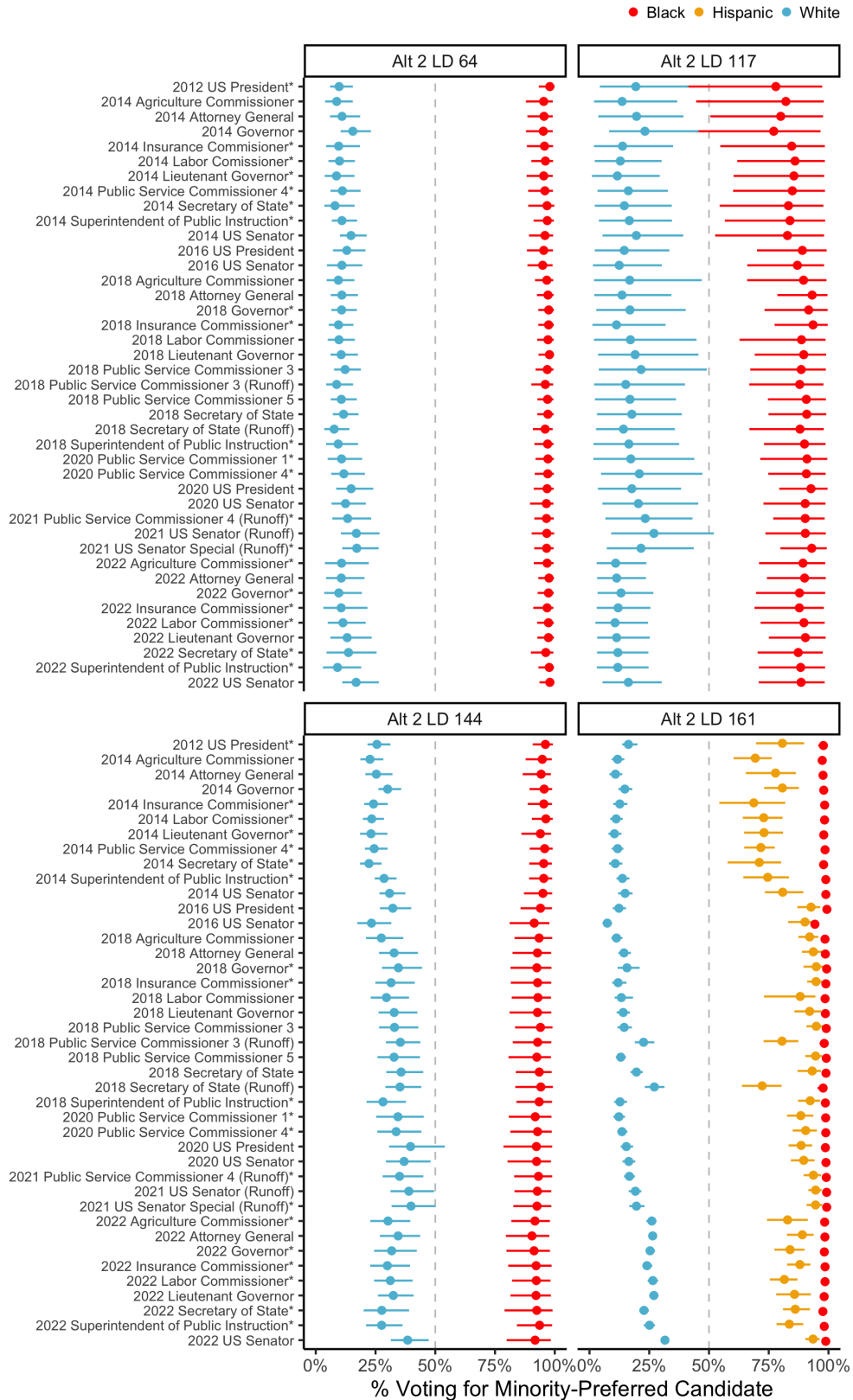


Figure 29: Ecological Inference Results — Illustrative Map 2 State House Districts (Historical Elections, Two-Party Vote Shares)

Performance Analysis of Illustrative Districts

82. I now turn to a performance analysis of the districts contained in the Illustrative Maps. To examine the performance of minority candidates in the Illustrative Maps, I examine the extent to which minority candidates have earned votes in past elections in the relevant districts. As before, I have determined the average vote share among minority candidates in each district, the minimum vote share earned by a minority candidate, the share of past elections a minority candidate won in each district, and the share of elections the minority candidate won safely (e.g., over 55% of the vote). I again draw upon the 20 statewide elections in which a racial minority candidate ran against a non-minority candidate since 2012. Table 10 in the Appendix denotes these elections with a star and reports the names of these candidates.

Congressional Districts

83. Table 5 presents the 2020 and 2022 share of the electorate for each minority group under consideration, along with the key summary statistics for district-wide electoral performance in the Illustrative congressional map.

84. Compared to the enacted map, there is one major difference and two slight differences. In the Illustrative Map, CD 3, which now reaches from the western part of the state into the Metro Atlanta area, becomes a district that performs in terms of the ability to elect minority candidates of choice. In the previous map, minority candidates never won an election in the district. In the

Illustrative Map, minority candidates now would have earned a majority in all past elections in which they ran.

85. Second, CDs 6 and 7 now provide a slightly stronger ability to elect minority candidates based on past elections. The share of past elections won by a minority candidate increased by 5% in CD 6 and by 15% in CD 7, compared to the enacted map. On the other hand, CDs 2 and 13 become more competitive, with CD 2 in particular now registering a safe victory for minority candidates in only a small share of past elections.

86. Overall, then, the Illustrative Map grants minority voters a very strong chance of electing preferred candidates in four of fourteen congressional districts (CDs 3, 4, 5 and 13). Minority voters still have a good chance of electing minority candidates in CDs 2 and 7, though with CD 2 considerably more competitive than in the enacted congressional map. Finally, based on historical elections, minority voters have a low chance of electing preferred candidates in the remaining congressional districts.

Table 5: Performance Analysis (Elections with a Minority Candidate), Illustrative Map CDs

CD	Black 2020	Black 2022	Hispanic 2020	Hispanic 2022	Mean M Vote	Min M Vote	M Wins	M Over 55%
1	25.8%	24.2%	2.0%	1.6%	42.0%	39.6%	0.0%	0.0%
2	42.6%	35.4%	1.3%	1.0%	50.1%	43.7%	70.0%	5.0%
3	43.9%	46.4%	2.2%	1.7%	58.7%	54.3%	100.0%	95.0%
4	45.0%	42.5%	2.4%	2.2%	80.7%	76.0%	100.0%	100.0%
5	45.2%	44.1%	4.1%	3.2%	71.0%	63.8%	100.0%	100.0%
6	11.1%	10.4%	3.9%	3.3%	42.0%	31.0%	5.0%	0.0%
7	34.8%	33.4%	8.3%	6.0%	57.8%	48.0%	80.0%	65.0%
8	21.5%	21.8%	1.5%	1.0%	30.4%	28.4%	0.0%	0.0%
9	2.8%	4.6%	3.3%	2.5%	19.8%	15.7%	0.0%	0.0%
10	14.0%	13.4%	2.6%	2.1%	30.9%	28.0%	0.0%	0.0%
11	14.0%	13.3%	3.2%	2.8%	34.0%	27.1%	0.0%	0.0%
12	34.8%	30.9%	1.6%	1.3%	44.5%	40.8%	0.0%	0.0%
13	47.2%	45.0%	2.2%	1.7%	56.8%	51.5%	100.0%	65.0%
14	5.5%	6.4%	3.8%	2.5%	23.5%	21.6%	0.0%	0.0%

Note: This table reports the share of the electorate, based on 2020 and 2022 turnout, of each minority racial group in a congressional district from the Illustrative Map along with the mean and minimum minority candidate vote share (labelled M) in the district across statewide elections with a minority candidate since 2012.

State Senate Districts

87. The tables below report the performance of the State Senate districts that I have analyzed under Illustrative Map 1 and 2. In Map 1, minority candidates win all past elections in SDs 16, 25, 28 and 40 and a strong majority of past elections in SDs 17. Several of these districts are relatively competitive, with the minority candidate winning by a narrow margin (e.g., less than 55%) at least a third of the time in SDs 17, 25 and 28.

88. In Map 2, minority candidates win all past elections in SD 16 and a majority of past elections in SD 23. Each district is relatively competitive, with the minority candidate earning less than 55% of the vote share 35% of the time in SD 16 and 80% of the time in SD 23.

89. To sum up, in the Illustrative State Senate Maps, minority-preferred candidates won more than half the time in every district I examine. This performance contrasts with the enacted Senate Districts I have examined, where minority candidates won more than half the time in 67% of districts.

Table 6: Performance Analysis (Elections with a Minority Candidate), Illustrative Map 1 SDs

SD	Black 2020	Black 2022	Hispanic 2020	Hispanic 2022	Mean M Vote	Min M Vote	M Wins	M Over 55%
16	45.2%	46.6%	1.9%	1.7%	56.4%	52.3%	100.0%	75.0%
17	44.1%	45.3%	2.6%	2.1%	57.8%	49.3%	90.0%	65.0%
25	43.0%	42.7%	1.3%	0.8%	53.4%	50.9%	100.0%	15.0%
28	43.5%	49.5%	2.3%	1.4%	58.8%	51.9%	100.0%	65.0%
40	49.4%	46.9%	3.9%	3.0%	75.6%	69.2%	100.0%	100.0%

Note: This table reports the share of the electorate, based on 2020 and 2022 turnout, of each minority racial group in a given Illustrative Map 1 State Senate district along with the mean and minimum minority candidate vote share (labelled M) in the district across statewide elections with a minority candidate since 2012.

Table 7: Performance Analysis (Elections with a Minority Candidate), Illustrative Map 2 SDs

SD	Black 2020	Black 2022	Hispanic 2020	Hispanic 2022	Mean M Vote	Min M Vote	M Wins	M Over 55%
16	44.1%	45.7%	1.9%	1.8%	55.4%	50.7%	100.0%	65.0%
23	45.7%	40.5%	0.9%	0.8%	52.4%	46.4%	70.0%	20.0%

Note: This table reports the share of the electorate, based on 2020 and 2022 turnout, of each minority racial group in a given Illustrative Map 2 State Senate district along with the mean and minimum minority candidate vote share (labelled M) in the district across statewide elections with a minority candidate since 2012.

State House Districts

90. The tables below report the performance of the State House districts that I have analyzed under Illustrative Map 1 and 2. In Map 1, minority candidates win all past elections in LDs 64, 144 and 161 and a majority of past elections in LDs 74, 117 and 151. Several of these districts are relatively competitive, with the minority candidate winning by a narrow margin (e.g., less than 55%) at least a third of the time in LDs 74, 117, 144 and 151. Finally, LD 171 offers some but by no means an overwhelming chance of electing minority candidates, as in this district minority candidates won 35% of past elections.

91. In Map 2, minority candidates win all past elections in LDs 64, 144 and 161. In LD 117, minority candidates won 35% of past elections.

92. To sum up, in each Illustrative State House Map, minority candidates won more than half the time in every district but one that I examine (86% and 75% of districts, respectively). This performance contrasts with the enacted House Districts I have examined, where minority candidates won more than half the time in 72% of districts.

93. I reserve the right to supplement this report if additional facts, testimony, and/or materials come to light. Pursuant to 28 U.S.C 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed this 13th day of January, 2023 at 11:30pm.

Signature: Ben Schuer

Table 8: Performance Analysis (Elections with a Minority Candidate), Illustrative Map 1 LDs

LD	Black 2020	Black 2022	Hispanic 2020	Hispanic 2022	Mean M Vote	Min M Vote	M Wins	M Over 55%
64	46.7%	51.2%	2.4%	1.8%	60.3%	53.5%	100.0%	80.0%
74	43.9%	36.2%	2.5%	1.9%	52.9%	48.0%	75.0%	35.0%
117	44.9%	50.5%	3.0%	1.8%	55.5%	45.7%	65.0%	60.0%
144	37.7%	33.7%	1.2%	0.9%	53.6%	50.4%	100.0%	30.0%
151	51.8%	35.5%	1.3%	0.6%	51.5%	39.5%	70.0%	45.0%
161	43.0%	36.7%	3.2%	2.9%	62.0%	57.4%	100.0%	100.0%
171	42.1%	39.2%	0.9%	0.5%	48.0%	42.3%	35.0%	0.0%

Note: This table reports the share of the electorate, based on 2020 and 2022 turnout, of each minority racial group in a given State Senate district along with the mean and minimum minority candidate vote share (labelled M) in the district across statewide elections with a minority candidate since 2012.

Table 9: Performance Analysis (Elections with a Minority Candidate), Illustrative Map 2 LDs

LD	Black 2020	Black 2022	Hispanic 2020	Hispanic 2022	Mean M Vote	Min M Vote	M Wins	M Over 55%
64	46.1%	50.5%	2.6%	1.9%	59.8%	53.0%	100.0%	75.0%
117	45.1%	33.6%	2.9%	1.7%	49.3%	42.0%	35.0%	35.0%
144	43.1%	39.5%	1.2%	0.9%	58.2%	54.7%	100.0%	95.0%
161	42.2%	35.4%	3.0%	2.7%	60.5%	56.2%	100.0%	100.0%

Note: This table reports the share of the electorate, based on 2020 and 2022 turnout, of each minority racial group in a given State Senate district along with the mean and minimum minority candidate vote share (labelled M) in the district across statewide elections with a minority candidate since 2012.

Appendix A

Additional Tables

Table 10: Statewide Minority-Preferred Candidates

Year	Office	Candidate
2020	2020 Public Service Commissioner 1*	Robert Bryant
2020	2020 Public Service Commissioner 4*	Daniel Blackman
2020	2020 US President	Joe Biden
2020	2020 US Senator	Jon Ossof
2021	2021 Public Service Commissioner 4 (Runoff)*	Daniel Blackman
2021	2021 US Senator (Runoff)	Raphael Warnock
2021	2021 US Senator Special (Runoff)*	Raphael Warnock
2022	2022 US Senator	Raphael Warnock
2022	2022 Governor*	Stacey Abrams
2022	2022 Lieutenant Governor	Charlie Bailey
2022	2022 Secretary of State*	Bee Nguyen
2022	2022 Attorney General	Jen Jordan
2022	2022 Agriculture Commissioner*	Nakita Hemingway
2022	2022 Insurance Commissioner*	Janice Laws Robinson
2022	2022 Labor Commissioner*	William Boddie
2022	2022 Superintendent of Public Instruction*	Alisha Searcy

Note: This table reports the overall minority-preferred candidate based on statewide ecological estimates for the elections considered in this report. A star denotes those offices where a minority candidate is preferred to a non-minority candidate by minority voters statewide.

Table 11: Statewide Minority-Preferred Candidates, Continued

Year	Office	Candidate
2012	2012 US President*	Barack Obama
2014	2014 Agriculture Commissioner	Christopher Irvin
2014	2014 Attorney General	Greg Hecht
2014	2014 Governor	Jason Carter
2014	2014 Insurance Commissioner*	Liz Johnson
2014	2014 Labor Commissioner*	Robbin Shipp
2014	2014 Lieutenant Governor*	Connie Stokes
2014	2014 Public Service Commissioner 4*	Daniel Blackman
2014	2014 Superintendent of Public Instruction*	Valarie Wilson
2014	2014 Secretary of State*	Doreen Carter
2014	2014 US Senator	Michelle Nunn
2016	2016 US President	Hilary Clinton
2016	2016 US Senator	Jim Barksdale
2018	2018 Agriculture Commissioner	Fred Swann
2018	2018 Attorney General	Charlie Bailey
2018	2018 Governor*	Stacey Abrams
2018	2018 Insurance Commissioner*	Janice Laws Robinson
2018	2018 Labor Commissioner	Richard Keatley
2018	2018 Lieutenant Governor	Sarah Riggs Amico
2018	2018 Public Service Commissioner 3	Lindy Miller
2018	2018 Public Service Commissioner 3 (Runoff)	Lindy Miller
2018	2018 Public Service Commissioner 5	Dawn Rudolph
2018	2018 Superintendent of Public Instruction*	Otha Thornton
2018	2018 Secretary of State	John Barrow
2018	2018 Secretary of State (Runoff)	John Barrow

Note: This table reports the overall minority-preferred candidate based on statewide ecological estimates for the elections considered in this report. A star denotes those offices where a minority candidate is preferred to a non-minority candidate by minority voters statewide.

Additional Maps: Clusters

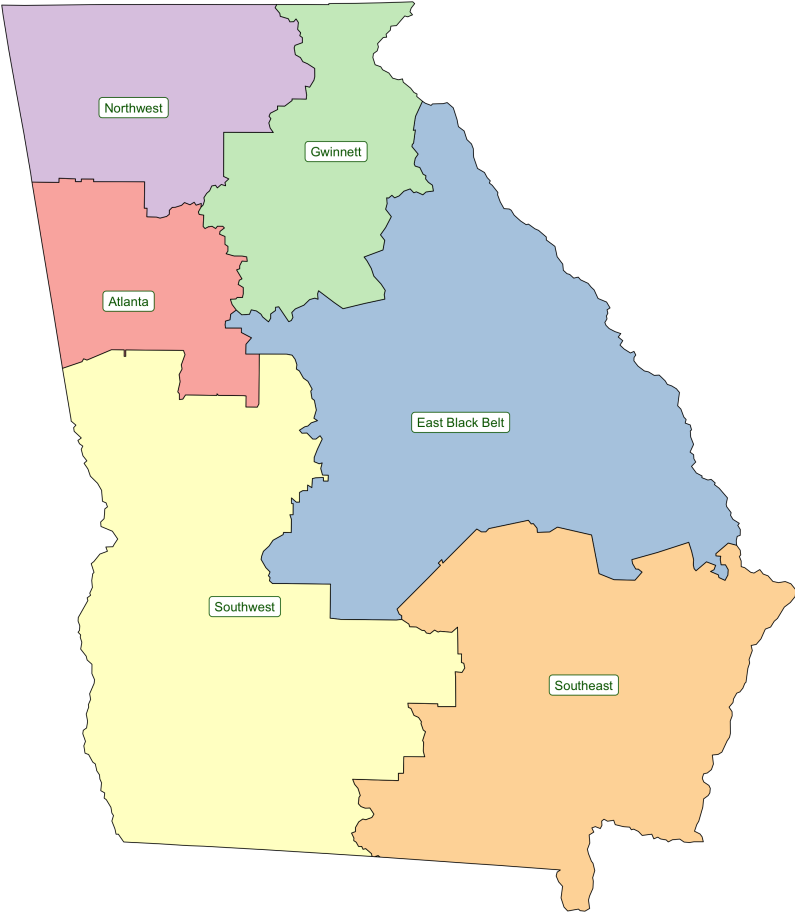


Figure 30: Map of State Senate Clusters

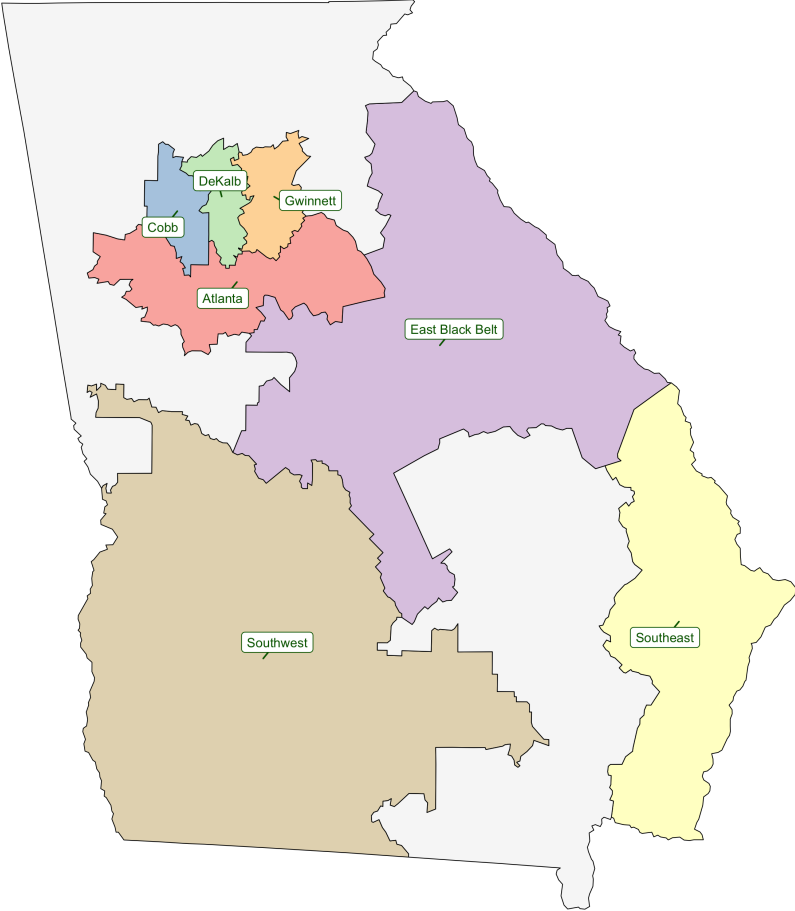


Figure 31: Map of State House Clusters

Additional Maps: Illustrative Congressional Districts

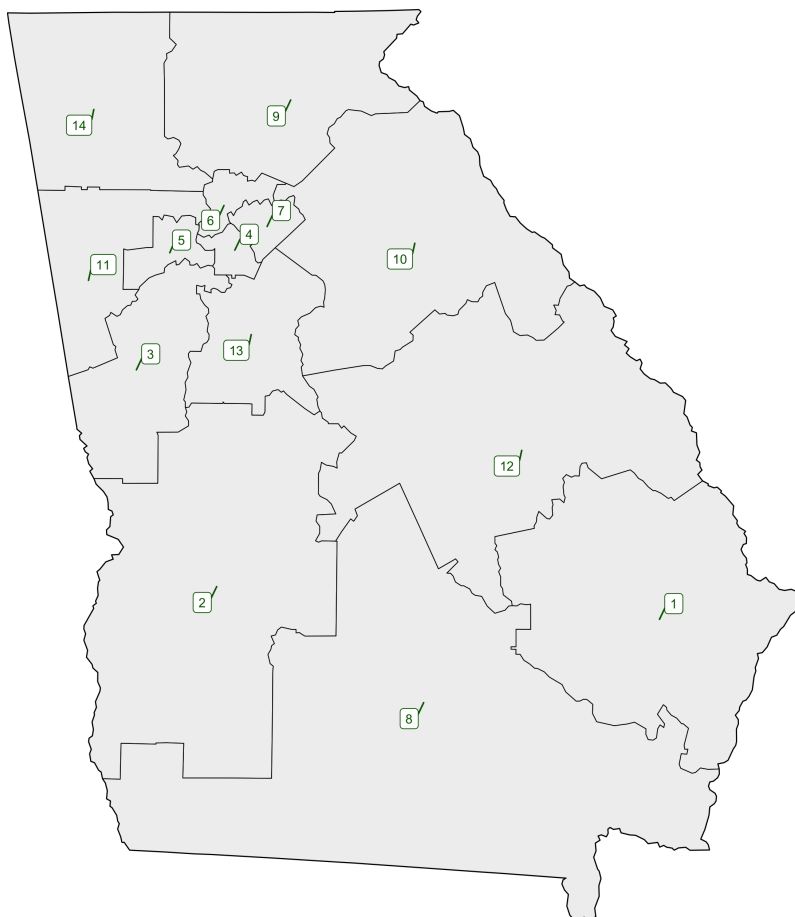


Figure 32: Map 1 of Illustrative State Senate Districts

Additional Maps: Illustrative State Senate Districts

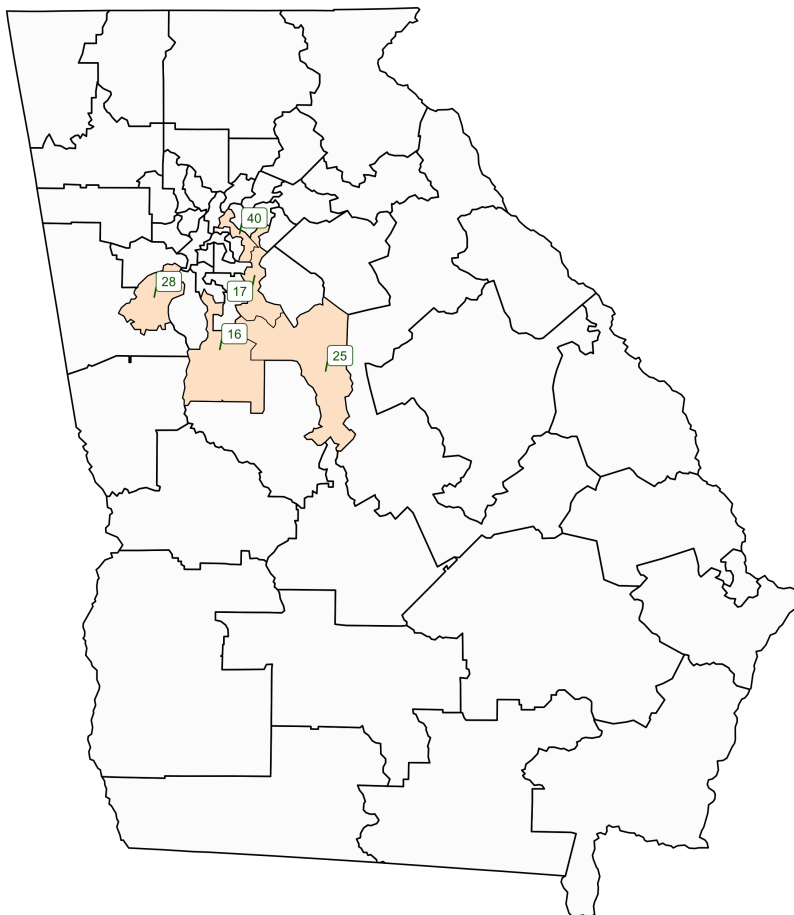


Figure 33: Map 1 of Illustrative State Senate Districts

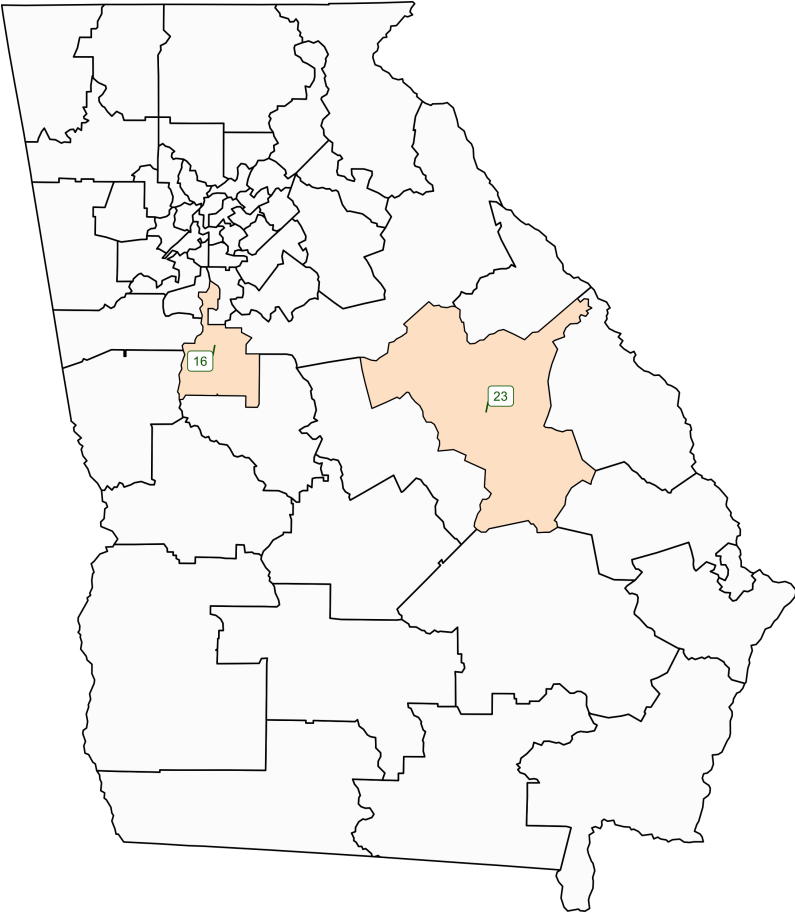


Figure 34: Map 2 of Illustrative State Senate Districts

Additional Maps: Illustrative State House Districts

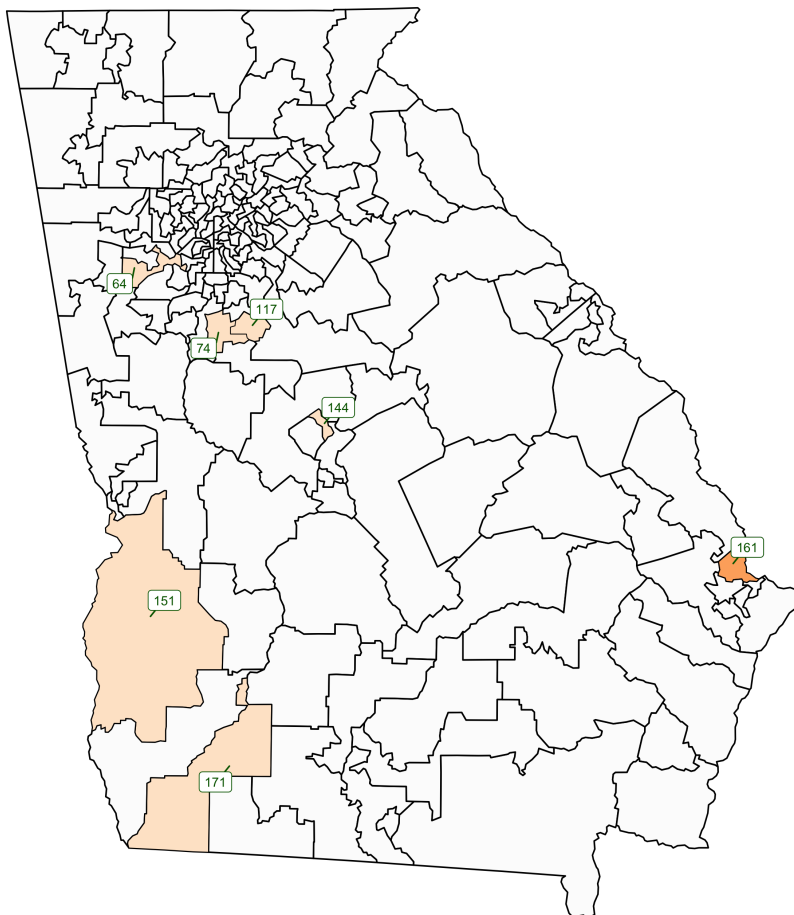


Figure 35: Map 1 of Illustrative State House Districts

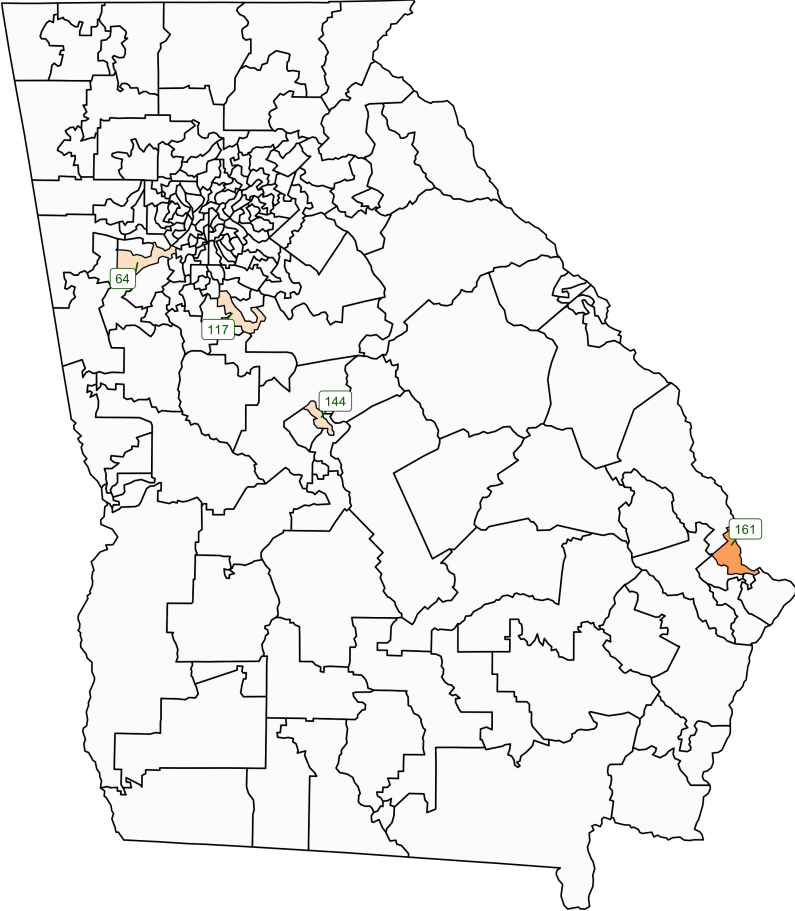


Figure 36: Map 2 of Illustrative State House Districts

Benjamin Schneer

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Academic Employment

Harvard Kennedy School

Assistant Professor of Public Policy, 2018–Present.

Florida State University

Assistant Professor of Political Science, 2016–2018.

Education

Ph.D. Political Science, Harvard University, 2016.

Committee: Gary King, Daniel Carpenter, Stephen Ansolabehere

M.A. Political Science, Harvard University, 2012.

M.A. Economics, Stanford University, 2010.

B.A. Economics & History, *Summa Cum Laude*, Columbia University, 2005.

Research Interests

Political Communication, Elections, Congress, Politics and History, Redistricting

Publications

“The Popular Origins of Legislative Jurisdictions: Petitions and Standing Committee Formation in Revolutionary Virginia and the Early U.S. House” (with Tobias Resch, Maggie McKinley, and Daniel Carpenter). 2022. *Journal of Politics* 84 (3): 1727–1745.

“Partisan Alignment Increases Voter Turnout: Evidence from Redistricting” (with Bernard Fraga and Daniel J. Moskowitz). 2022. *Political Behavior* 44: 1883–1910.

“Congressional Representation by Petition: Assessing the Voices of the Voteless in a Comprehensive New Database, 1789-1949” (with Maggie Blackhawk, Tobias Resch, and Daniel Carpenter). 2021. *Legislative Studies Quarterly* 46 (3): 817–849.

“From the Halls of Congress to K Street: Government Experience and Its Value for Lobbying” (with Pamela Ban and Maxwell Palmer). 2019. *Legislative Studies Quarterly* 44 (4): 713–752.

“Reevaluating Competition and Turnout in U.S. House Elections” (with Daniel J. Moskowitz). 2019. *Quarterly Journal of Political Science* 14: 191-223.

“Postpolitical Careers: How Politicians Capitalize on Public Office” (with Maxwell Palmer). 2019. *Journal of Politics* 81 (2): 670-675.

“Suffrage Petitioning as Formative Practice: American Women Presage and Prepare for the Vote, 1840-1940” (with Daniel Carpenter, Zachary Popp, Tobias Resch, and Nicole Topich). 2018. *Studies in American Political Development* 32 (1): 24–48.

“Paths of Recruitment: Rational Social Prospecting in Petition Canvassing” (with Clayton Nall and Daniel Carpenter). 2018. *American Journal of Political Science* 62 (2): 192–209.

“Divided Government and Significant Legislation: A History of Congress from 1789–2010” (with Stephen Ansolabehere and Maxwell Palmer). 2018. *Social Science History* 42 (1): 81–108.

“How the News Media Activate Public Expression and Influence National Agendas” (with Gary King and Ariel White). 2017. *Science* 358 (6364): 776–780.

“Capitol Gains: The Returns to Elected Office from Corporate Board Directorships” (with Maxwell Palmer). 2016. *Journal of Politics* 78 (1): 181–196.

“What Has Congress Done?” (with Stephen Ansolabehere and Maxwell Palmer). 2016. *Governing in a Polarized Age: Elections, Parties, and Political Representation in America*, eds. Alan S. Gerber and Eric Schickler. New York: Cambridge University Press.

“Party Formation Through Petitions: The Whigs and the Bank War of 1832–1834” (with Daniel Carpenter). 2015. *Studies in American Political Development* 29 (2): 1–22.

Working Papers

“Descended from Immigrants and Revolutionists’: How Immigrant Background Shapes Legislative Behavior in Congress” (with James Feigenbaum and Maxwell Palmer). HKS Working Paper No. RWP19-028. *Under Revision*.

“When the Going Gets Tough, Members Go Home: Electoral Threat and Legislator Behavior in the U.S. Congress” (with Jaclyn Kaslovsky and Daniel J. Moskowitz).

“Why Party Leaders Tend to Be Extremists” (with David C. King and Richard Zeckhauser). HKS Working Paper No. RWP20-015.

“Policy Consequences of Civil Society: Evidence from German-American Counter-Mobilization to Prohibition” (with Tobias Reisch).

“A Partisan Solution to Partisan Gerrymandering: The Define-Combine Procedure” (with Maxwell Palmer and Kevin DeLuca). HKS Working Paper No. RWP22-012.

“Direct Election and Political Representation: Evidence from Congressional Petitioning.”

“Bayesian Instrumental Variables Estimation with Relaxations of the Exclusion Restriction” (with Michael Gill and Arman Sabbaghi).

Current Projects

“Paywalls” (with Desmond Ang and Avinash Moorthy).

“Permanent Minority Rule? Uncovering the Limits of Partisan Gerrymandering” (with Maxwell Palmer).

“Coattail Effects and Candidate Quality” (with Kevin DeLuca and Dan Moskowitz).

“Misperceptions of Life Expectancy” (with Desmond Ang).

Reports, Other Publications and Selected Media

“Racially Polarized Voting Analysis for the Virginia Redistricting Commission” (with Maxwell Palmer). August 31, 2021.

“Drawing a Line.” *Harvard Kennedy School Magazine*. Winter 2020.

“Review of Evaluating Media Bias, by Adam J. Schiffer.” 2020. *American Review of Politics* 37 (1): 106–8.

“Drawing the Line on Gerrymandering.” *HKS PolicyCast (Podcast)*, December 10, 2019.

“The Arizona Redistricting Commission: One State’s Model for Gerrymandering Reform” (with Colleen Mathis and Daniel J. Moskowitz). *Ash Center Policy Brief*, 2019.

“Are Divided Governments the Cause of Delays and Shutdowns?” *The Science of Politics (Podcast)*, January 2, 2019.

“Canvassers Tend to Seek Out Supporters Who Are Like Themselves, and That’s Not Good for Political Participation” (with Daniel Carpenter and Clayton Nall). *LSE USAPP Blog*, November 1, 2017.

“How and Why Retired Politicians Get Lucrative Appointments on Corporate Boards” (with Maxwell Palmer). *The Washington Post (Monkey Cage)*, February 1, 2015.

“An Analysis of the Arizona Independent Redistricting Commission Congressional District Map” (with Gary King). *Submitted to Department of Justice*, 2012.

“An Analysis of the Arizona Independent Redistricting Commission Legislative District Map” (with Gary King). *Submitted to Department of Justice*, 2012.

Conferences & Presentations

2022: Georgia State University (Economics), HKS Faculty Lunch Seminar, Harris School (University of Chicago CEG American Politics Conference), APSA

2021: Redistricting Algorithms, Law, and Policy (Radcliffe Institute), Metro Cities Council of the American Chamber of Commerce Executives, APSA

2020: HKS Faculty Lunch Seminar

2019: MPSA, Congress & History

2018: FSU (Colloquium), Congress & History, APSA

2017: Congress & History

2016: PolNet, APSA

2015: The Media Consortium, Boston University (Emerging Media Studies), MPSA, Iowa State, APSA, Harvard (Grad PE, APRW)

2014: SPSA, Texas A&M, The Media Consortium, Radcliffe (The Petition in North America), MPSA, Harvard (APRW x2, Grad PE, PE), NYU (Alexander Hamilton Center for Political Economy), PolMeth (Poster Session), APSA, Tobin Project

2013: Harvard (Grad PE), MPSA, The Media Consortium

2012: Harvard (APRW)

2011: Harvard (APRW)

Teaching

API 202: Empirical Methods II, Harvard Kennedy School, Spring 2022 & Spring 2023.

DPI 610: Data Science for Politics, Harvard Kennedy School, Spring 2020 & Spring 2021.

DPI 308: Translating Public Opinion into Policy Action, Harvard Kennedy School, Spring 2019, Fall 2020 & Spring 2021.

Forecasting Elections in 2020 (Summer Engagement Session), Harvard Kennedy School, Summer 2020.

POS 3263: Political Elites and Representation, Florida State University, Spring 2018.

POS 4424: Legislative Systems, Florida State University, Spring 2017, Fall 2017 & Spring 2018.

POS 5427: Legislative Politics, Florida State University, Spring 2017.

POS 5045: National Government (American Politics Core), Florida State University, Fall 2017.

Gov 30: American Government, Professor Paul E. Peterson, Harvard University, Fall 2013 (TF).

Gov 1300: The Politics of Congress, Professor Stephen Ansolabehere, Harvard University, Spring 2013 (TF).

Gov 1359: The Road to the White House, Carlos Diaz Rosillo, Harvard University, Fall 2012 (TF).

Econ 101: Economic Policy Analysis, Anamaria Pieschacon, Stanford University, Fall 2009 & Winter 2010 (TA).

Past Employment

Research Assistant, Professor Gary King, Harvard University, 2011–2016.

Research Assistant, Professor Daniel Carpenter, Harvard University, 2011–2014.

Research Assistant, Professor Gavin Wright, Stanford University, 2008–2009.

Research Analyst, LECG LLC, 2006–2007.

Research Fellow, Professor Alison Morantz, Stanford Law School 2005–2006, 2010.

Fellowships & Awards

American Journal of Political Science Best Paper Award (co-winner) for “Paths of Recruitment: Rational Social Prospecting in Petition Canvassing,” 2018.

Summer Institute, Center for Advanced Study in the Behavioral Sciences, 2017.

First Year Assistant Professor Grant, Florida State University, 2017.

Richard J. Herrnstein Prize, awarded by the Harvard Graduate School of Arts and Sciences for “a dissertation that exhibits excellent scholarship, originality and breadth of thought, and a commitment to intellectual independence,” 2016.

GSAS Dissertation Completion Fellowship, Harvard University, 2015–2016.

Term Time Merit Fellowship, Graduate Society, Harvard University, 2014–2015.

Dissertation Research Fellowship for Study of the American Republic, Center for American Political Studies, Harvard University, 2014–2015.

Jeanne Humphrey Block Dissertation Award, Institute for Quantitative Social Sciences, Harvard University, 2014–2015.

Graduate Research Grant, Institute for Quantitative Social Sciences, Harvard University, 2014–2015.

Fellow, Democracy & Markets, Tobin Project, 2014–2015.

Graduate Fellowship, Harvard University, 2010–2016.

NSF Travel Grant, Annual Conference of the Society for Political Methodology, 2014

Travel Grant, Institute for Quantitative Social Science, Harvard University, 2013, 2014, 2015.

Outstanding Teaching Assistant, Stanford University, 2009–2010.

Phi Beta Kappa, 2005.

Dean's List, Columbia University, 2001–2005.

Other

Affiliations

Taubman Center for State and Local Government, Harvard Kennedy School

Ash Center for Democratic Governance and Innovation, Harvard Kennedy School

Institute for Quantitative Social Science, Harvard University

Center for American Political Studies (CAPS), Harvard University

Multidisciplinary Program in Inequality and Social Policy, Harvard University

Political Analysis Track, Ph.D. Program in Health Policy, Harvard University

Service

Co-Organizer, American Politics Speaker Series, Harvard Kennedy School and Department of Government, 2019–Present.

DPI Junior American Politics Search Committee, Harvard Kennedy School, 2019–2020.

Host, Faculty Research Seminar, Harvard Kennedy School, 2019, 2021.

MPP Admissions Committee, Harvard Kennedy School, 2018–2019.

PhD Admissions Committee, Institutions and Politics Track, Harvard Kennedy School, 2021–2022.

Selected Consulting

Virginia Redistricting Commission (Voter Polarization Analysis, 2020s Redistricting Cycle)

Arizona Independent Redistricting Commission (2010s Redistricting Cycle)

New York Civil Liberties Union (*Hurrell-Harring et al. v. the State of New York*)

Other Projects/Cases: Illinois State Legislature (Redistricting), Texas (Voter ID)

Software Packages

R, Stata, SAS, Python, ArcGIS, L^AT_EX.

EXPERT REPORT OF JOHN R. ALFORD, Ph.D.

Scope of Inquiry

I have been retained by the Georgia Secretary of State and State Election Board as an expert to provide analysis related to *Grant v. Raffensperger*, *Alpha Phi Alpha v. Raffensperger*, and *Pendergrass v. Raffensperger*. All three cases allege the current U.S. Congressional, state Senate, and state House districts in Georgia violate Section 2 of the Voting Rights Act. In early 2022, I provided a report and testified in the preliminary injunction hearing in those matters. I have provided a report in those cases dated 2/6/2023 that was responsive to the reports and supplemental reports provided by plaintiffs' experts Dr. Maxwell Palmer, and Dr. Lisa Handley. The previous report, including my analysis of primary voting relevant to this case, is attached as Appendix 2. In this report I will supplement that report with additional consideration of the report provided by Dr. Benjamin Schneer dated 1/13/2023 in *Ga. NAACP* and *Common Cause* cases. My rate of compensation in this matter is \$500 per hour.

Qualifications

I am a tenured full professor of political science at Rice University. At Rice, I have taught courses on redistricting, elections, political representation, voting behavior and statistical methods at both the undergraduate and graduate level. Over the last thirty years, I have worked with numerous local governments on districting plans and on Voting Rights Act issues. I have previously provided expert reports and/or testified as an expert witness in voting rights and statistical issues in a variety of court cases, including on behalf of the U.S. Attorney in Houston, Texas, the Texas Attorney General, a U.S. Congressman, and various cities and school districts.

In the 2000 round of redistricting, I was retained as an expert to provide advice to the Texas Attorney General in his role as Chair of the Legislative Redistricting Board. I subsequently served as the expert for the State of Texas in the state and federal litigation involving the 2001 redistricting for U.S. Congress, the Texas Senate, the Texas House of Representatives, and the Texas State Board of Education. In the 2010 round of redistricting in Texas, I was again retained as an expert by the State of Texas to assist in defending various state election maps and systems including the district maps for the U.S. Congress, the Texas Senate, the Texas House of Representatives, and the current at large system for electing Justices to the State Supreme Court

and Court of Appeals, as well as the winner-take-all system for allocating Electoral College votes.

I have also worked as an expert on redistricting and voting rights cases at the state and/or local level in Alabama, Arkansas, Florida, Georgia, Kansas, Louisiana, Michigan, Mississippi, New Mexico, New York, Pennsylvania, Washington, and Wisconsin. The details of my academic background, including all publications in the last ten years, and work as an expert, including all cases in which I have testified by deposition or at trial in the last four years, are covered in the attached CV (Appendix 1).

Data and Sources

In preparing this report, I have reviewed the reports filed by the Dr. Schneer in this case. I have also reviewed various election and demographic data provided by Dr. Schneer in his disclosures related to his report in this case.

Dr. Schneer's Report

In his report dated 2/13/2023, Dr. Schneer provides the results of a set of Ecological Inference ("EI") election analyses that he used to assess Racially Polarized Voting (RPV) in 41 two-party contested general election contests between 2012 and 2022. He notes that 21 of these contests (indicated by an asterisk next to the contest label) include a minority candidate running against a non-minority candidate. He considers these contests to be the most probative. The remaining 20 contests feature candidates that are the same race. He reports results for the estimated voting preferences in all 41 of these contests within a variety of geographic contexts for Black, white, and sometimes Hispanic voters. As his list of the 21 minority candidates on pages 13-14 shows, all 21 are running as Democrats, and in his broader set of 41 election contests, the preferred candidate of Black voters is always the Democrat.

Dr. Schneer acknowledges that the race of the candidates provides important information about racially polarized voting. He notes, "[w]hile I estimate RPV results for all statewide general elections since 2012, I rely on those elections in which a minority candidate was one of the two major party candidates running for office as most probative for making inferences about racially polarized voting" (page 13). In his associated footnote 18 on page 13, he states that an "election between a minority and a non-minority candidate provides variation in the race of the candidate

and therefore offers a test of whether race might matter in vote choice among different voter groups.” He goes on to say that he also includes “elections in which no minority candidate ran or two minority candidates ran as major party candidates. These are useful for establishing a general pattern of vote choice for different racial groups, even if elections with a single minority candidate are most probative for determining the extent of RPV” (page 14).

However, despite having recognized the potential value this data identified in his reports and the associated opportunity analyze it, there is no discussion of the impact, if any, that the race of the candidate has on the behavior of Black, white, or Hispanic voters in any of these contests.

Consider the patterns evident in Dr. Schneer’s Figure 1. In all 41 of the 41 election contests examined, minorities show cohesive voting for the Democratic candidate. In contrast, White voters cohesively favor the Republican candidate. Clearly the partisan label of a candidate matters, as there is only minimal variation in the estimated vote shares across ten years and 41 elections ranging from top-of-the-ballot Presidential contests to down ballot contests like Public Service Commissioner.

The key question is whether the variation in the race of the Democratic candidate matters to either minority or white voters. As noted above, Dr. Schneer acknowledges that “variation in the race of the candidate ... offers a test of whether race might matter in vote choice among different voter groups” (page 13). Here we have that variation across Democratic candidates as roughly half are minorities running against white candidates, and the other half are not. A look at any of the 17 figures relating to the various geographies examined in Dr. Schneer’s report makes it clear that the strong support of minority voters for Democratic candidates does not in fact vary to any visible degree¹ on the basis of the race of the candidates. In other words, “variation in the race of the candidate ... offers a test of whether race might matter in vote choice among different voter groups,” and based on Dr. Schneer’s results, there is no indication that race matters in the vote choice among different voter groups. This is exactly the same result illustrated in my discussion of the pattern of general election results presented in the reports of Dr. Handley and Dr. Palmer.

¹ We have to rely on visual comparison here because Dr. Schneer does not provide the numerical point estimates for his EI analysis. However, his analysis is very similar to the analysis of general elections in Dr. Palmer’s reports where the numeric estimates are provided, and that numeric comparison is covered in my report in this case dated 2/6/2023.

Dr. Schneer recognizes that the vote patterns don't vary by the race of candidates, and this can be seen throughout his report where he consistently observes the same cohesive voting patterns in elections regardless of whether the election features a minority candidate running against a non-minority candidate, or the election has no minority candidate on the ballot. For example, in reflecting on his Figure 1, Dr. Schneer concludes that: "I estimate that about 96% of Hispanic voters supported Abrams in 2018. Again, the results are generally similar across other elections I examined with minority candidates. When a minority candidate was not one of the two major party candidates, minority voters continued to vote cohesively, supporting particular candidates at overwhelming rates." (Page 15). And again toward the end of his report discussing patterns in his Figure 27, he notes that he observes "evidence of RPV with Black and Hispanic voters supporting minority candidates and White voters opposing them across all past statewide elections with a minority candidate running. When a minority candidate does not run, Black and Hispanic voters support the same minority preferred candidate and white voters oppose this candidate" (page 63).

Summary Conclusions

Dr. Schneer's analysis of voting in general elections is entirely comparable to that of Dr. Palmer and Dr. Handley. All three provide analysis that demonstrates that Black voters provide uniformly high levels of support for Democratic candidates and white voters provide uniformly high levels of support for Republican candidates. Dr. Schneer acknowledges that variation in the race of candidates provides a test of whether race matters to voters, and the large set of elections both he and Dr. Palmer provide, across the ballot and across a decade, nicely happens to divide almost evenly into half that are racially contested and half that are not. The results of this test are clear. The high level of minority voter support for Democratic candidates is not a response to the race of the Democratic or Republican candidates. Similarly, the high level of white voter support for Republican candidates is not a response to the race of the Democratic or Republican candidates.



John R. Alford, Ph.D.

February 10, 2023

Appendix 1

CV

John R. Alford
Curriculum Vitae
January 2023

Dept. of Political Science
Rice University - MS-24
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Houston, Texas 77251-1892
713-348-3364
jra@rice.edu

Employment:

Professor, Rice University, 2015 to present.
Associate Professor, Rice University, 1985-2015.
Assistant Professor, University of Georgia, 1981-1985.
Instructor, Oakland University, 1980-1981.
Teaching-Research Fellow, University of Iowa, 1977-1980.
Research Associate, Institute for Urban Studies, Houston, Texas, 1976-1977.

Education:

Ph.D., University of Iowa, Political Science, 1981.
M.A., University of Iowa, Political Science, 1980.
M.P.A., University of Houston, Public Administration, 1977.
B.S., University of Houston, Political Science, 1975.

Books:

Predisposed: Liberals, Conservatives, and the Biology of Political Differences. New York: Routledge, 2013. Co-authors, John R. Hibbing and Kevin B. Smith.

Articles:

“Political Orientations Vary with Detection of Androstenone,” with Amanda Friesen, Michael Gruszczynski, and Kevin B. Smith. **Politics and the Life Sciences.** (Spring, 2020).

“Intuitive ethics and political orientations: Testing moral foundations as a theory of political ideology.” with Kevin Smith, John Hibbing, Nicholas Martin, and Peter Hatemi. **American Journal of Political Science.** (April, 2017).

“The Genetic and Environmental Foundations of Political, Psychological, Social, and Economic Behaviors: A Panel Study of Twins and Families.” with Peter Hatemi, Kevin Smith, and John Hibbing. **Twin Research and Human Genetics.** (May, 2015.)

“Liberals and conservatives: Non-convertible currencies.” with John R. Hibbing and Kevin B. Smith. **Behavioral and Brain Sciences** (January, 2015).

“Non-Political Images Evoke Neural Predictors Of Political Ideology.” with Woo-Young Ahn, Kenneth T. Kishida, Xiaosi Gu, Terry Lohrenz, Ann Harvey, Kevin Smith, Gideon Yaffe, John Hibbing, Peter Dayan, P. Read Montague. **Current Biology.** (November, 2014).

“Cortisol and Politics: Variance in Voting Behavior is Predicted by Baseline Cortisol Levels.” with Jeffrey French, Kevin Smith, Adam Guck, Andrew Birnie, and John Hibbing. **Physiology & Behavior**. (June, 2014).

“Differences in Negativity Bias Underlie Variations in Political Ideology.” with Kevin B. Smith and John R. Hibbing. **Behavioral and Brain Sciences**. (June, 2014).

“Negativity bias and political preferences: A response to commentators Response.” with Kevin B. Smith and John R. Hibbing. **Behavioral and Brain Sciences**. (June, 2014).

“Genetic and Environmental Transmission of Political Orientations.” with Carolyn L. Funk, Matthew Hibbing, Kevin B. Smith, Nicholas R. Eaton, Robert F. Krueger, Lindon J. Eaves, John R. Hibbing. **Political Psychology**, (December, 2013).

“Biology, Ideology, and Epistemology: How Do We Know Political Attitudes Are Inherited and Why Should We Care?” with Kevin Smith, Peter K. Hatemi, Lindon J. Eaves, Carolyn Funk, and John R. Hibbing. **American Journal of Political Science**. (January, 2012)

“Disgust Sensitivity and the Neurophysiology of Left-Right Political Orientations.” with Kevin Smith, John Hibbing, Douglas Oxley, and Matthew Hibbing, **PlosONE**, (October, 2011).

“Linking Genetics and Political Attitudes: Re-Conceptualizing Political Ideology.” with Kevin Smith, John Hibbing, Douglas Oxley, and Matthew Hibbing, **Political Psychology**, (June, 2011).

“The Politics of Mate Choice.” with Peter Hatemi, John R. Hibbing, Nicholas Martin and Lindon Eaves, **Journal of Politics**, (March, 2011).

“Not by Twins Alone: Using the Extended Twin Family Design to Investigate the Genetic Basis of Political Beliefs” with Peter Hatemi, John Hibbing, Sarah Medland, Matthew Keller, Kevin Smith, Nicholas Martin, and Lindon Eaves, **American Journal of Political Science**, (July, 2010).

“The Ultimate Source of Political Opinions: Genes and the Environment” with John R. Hibbing in **Understanding Public Opinion**, 3rd Edition eds. Barbara Norrander and Clyde Wilcox, Washington D.C.: CQ Press, (2010).

“Is There a ‘Party’ in your Genes” with Peter Hatemi, John R. Hibbing, Nicholas Martin and Lindon Eaves, **Political Research Quarterly**, (September, 2009).

“Twin Studies, Molecular Genetics, Politics, and Tolerance: A Response to Beckwith and Morris” with John R. Hibbing and Cary Funk, **Perspectives on Politics**, (December, 2008). This is a solicited response to a critique of our 2005 APSR article “Are Political Orientations Genetically Transmitted?”

“Political Attitudes Vary with Physiological Traits” with Douglas R. Oxley, Kevin B. Smith, Matthew V. Hibbing, Jennifer L. Miller, Mario Scalora, Peter K. Hatemi, and John R. Hibbing, **Science**, (September 19, 2008).

“The New Empirical Biopolitics” with John R. Hibbing, **Annual Review of Political Science**, (June, 2008).

“Beyond Liberals and Conservatives to Political Genotypes and Phenotypes” with John R. Hibbing and Cary Funk, **Perspectives on Politics**, (June, 2008). This is a solicited response to a critique of our 2005 APSR article “Are Political Orientations Genetically Transmitted?”

“Personal, Interpersonal, and Political Temperaments” with John R. Hibbing, **Annals of the American Academy of Political and Social Science**, (November, 2007).

“Is Politics in our Genes?” with John R. Hibbing, **Tidsskriftet Politik**, (February, 2007).

“Biology and Rational Choice” with John R. Hibbing, **The Political Economist**, (Fall, 2005)

“Are Political Orientations Genetically Transmitted?” with John R. Hibbing and Carolyn Funk, **American Political Science Review**, (May, 2005). (The main findings table from this article has been reprinted in two college level text books - Psychology, 9th ed. and Invitation to Psychology 4th ed. both by Wade and Tavris, Prentice Hall, 2007).

“The Origin of Politics: An Evolutionary Theory of Political Behavior” with John R. Hibbing, **Perspectives on Politics**, (December, 2004).

“Accepting Authoritative Decisions: Humans as Wary Cooperators” with John R. Hibbing, **American Journal of Political Science**, (January, 2004).

“Electoral Convergence of the Two Houses of Congress” with John R. Hibbing, in **The Exceptional Senate**, ed. Bruce Oppenheimer, Columbus: Ohio State University Press, (2002).

“We’re All in this Together: The Decline of Trust in Government, 1958-1996.” in **What is it About Government that Americans Dislike?**, eds. John Hibbing and Beth Theiss-Morse, Cambridge: Cambridge University Press, (2001).

“The 2000 Census and the New Redistricting,” **Texas State Bar Association School Law Section Newsletter**, (July, 2000).

“Overdraft: The Political Cost of Congressional Malfeasance” with Holly Teeters, Dan Ward, and Rick Wilson, **Journal of Politics** (August, 1994).

"Personal and Partisan Advantage in U.S. Congressional Elections, 1846-1990" with David W. Brady, in **Congress Reconsidered** 5th edition, eds. Larry Dodd and Bruce Oppenheimer, CQ Press, (1993).

"The 1990 Congressional Election Results and the Fallacy that They Embodied an Anti-Incumbent Mood" with John R. Hibbing, **PS** 25 (June, 1992).

"Constituency Population and Representation in the United States Senate" with John R. Hibbing. **Legislative Studies Quarterly**, (November, 1990).

"Editors' Introduction: Electing the U.S. Senate" with Bruce I. Oppenheimer. **Legislative Studies Quarterly**, (November, 1990).

"Personal and Partisan Advantage in U.S. Congressional Elections, 1846-1990" with David W. Brady, in **Congress Reconsidered** 4th edition, eds. Larry Dodd and Bruce Oppenheimer, CQ Press, (1988). Reprinted in *The Congress of the United States, 1789-1989*, ed. Joel Silby, Carlson Publishing Inc., (1991), and in *The Quest for Office*, eds. Wayne and Wilcox, St. Martins Press, (1991).

"Can Government Regulate Fertility? An Assessment of Pro-natalist Policy in Eastern Europe" with Jerome Legge. **The Western Political Quarterly** (December, 1986).

"Partisanship and Voting" with James Campbell, Mary Munro, and Bruce Campbell, in **Research in Micropolitics. Volume 1 - Voting Behavior**. Samuel Long, ed. JAI Press, (1986).

"Economic Conditions and Individual Vote in the Federal Republic of Germany" with Jerome S. Legge. **Journal of Politics** (November, 1984).

"Television Markets and Congressional Elections" with James Campbell and Keith Henry. **Legislative Studies Quarterly** (November, 1984).

"Economic Conditions and the Forgotten Side of Congress: A Foray into U.S. Senate Elections" with John R. Hibbing, **British Journal of Political Science** (October, 1982).

"Increased Incumbency Advantage in the House" with John R. Hibbing, **Journal of Politics** (November, 1981). Reprinted in *The Congress of the United States, 1789-1989*, Carlson Publishing Inc., (1991).

"The Electoral Impact of Economic Conditions: Who is Held Responsible?" with John R. Hibbing, **American Journal of Political Science** (August, 1981).

"Comment on Increased Incumbency Advantage" with John R. Hibbing, Refereed communication: **American Political Science Review** (March, 1981).

"Can Government Regulate Safety? The Coal Mine Example" with Michael Lewis-Beck, **American Political Science Review** (September, 1980).

Awards and Honors:

CQ Press Award - 1988, honoring the outstanding paper in legislative politics presented at the 1987 Annual Meeting of the American Political Science Association. Awarded for "The Demise of the Upper House and the Rise of the Senate: Electoral Responsiveness in the United States Senate" with John Hibbing.

Research Grants:

National Science Foundation, 2009-2011, "Identifying the Biological Influences on Political Temperaments", with John Hibbing, Kevin Smith, Kim Espy, Nicolas Martin and Read Montague. This is a collaborative project involving Rice, University of Nebraska, Baylor College of Medicine, and Queensland Institute for Medical Research.

National Science Foundation, 2007-2010, "Genes and Politics: Providing the Necessary Data", with John Hibbing, Kevin Smith, and Lindon Eaves. This is a collaborative project involving Rice, University of Nebraska, Virginia Commonwealth University, and the University of Minnesota.

National Science Foundation, 2007-2010, "Investigating the Genetic Basis of Economic Behavior", with John Hibbing and Kevin Smith. This is a collaborative project involving Rice, University of Nebraska, Virginia Commonwealth University, and the Queensland Institute of Medical Research.

Rice University Faculty Initiatives Fund, 2007-2009, "The Biological Substrates of Political Behavior". This is in assistance of a collaborative project involving Rice, Baylor College of Medicine, Queensland Institute of Medical Research, University of Nebraska, Virginia Commonwealth University, and the University of Minnesota.

National Science Foundation, 2004-2006, "Decision-Making on Behalf of Others", with John Hibbing. This is a collaborative project involving Rice and the University of Nebraska.

National Science Foundation, 2001-2002, dissertation grant for Kevin Arceneaux, "Doctoral Dissertation Research in Political Science: Voting Behavior in the Context of U.S. Federalism."

National Science Foundation, 2000-2001, dissertation grant for Stacy Ulbig, "Doctoral Dissertation Research in Political Science: Sub-national Contextual Influences on Political Trust."

National Science Foundation, 1999-2000, dissertation grant for Richard Engstrom, "Doctoral Dissertation Research in Political Science: Electoral District Structure and Political Behavior."

Rice University Research Grant, 1985, Recent Trends in British Parliamentary Elections.

Faculty Research Grants Program, University of Georgia, Summer, 1982. Impact of Media Structure on Congressional Elections, with James Campbell.

Papers Presented:

"The Physiological Basis of Political Temperaments" 6th European Consortium for Political Research General Conference, Reykjavik, Iceland (2011), with Kevin Smith, and John Hibbing.

"Identifying the Biological Influences on Political Temperaments" National Science Foundation Annual Human Social Dynamics Meeting (2010), with John Hibbing, Kimberly Espy, Nicholas Martin, Read Montague, and Kevin B. Smith.

"Political Orientations May Be Related to Detection of the Odor of Androstenone" Annual meeting of the Midwest Political Science Association, Chicago, IL (2010), with Kevin Smith, Amanda Balzer, Michael Gruszczynski, Carly M. Jacobs, and John Hibbing.

"Toward a Modern View of Political Man: Genetic and Environmental Transmission of Political Orientations from Attitude Intensity to Political Participation" Annual meeting of the American Political Science Association, Washington, DC (2010), with Carolyn Funk, Kevin Smith, and John Hibbing.

"Genetic and Environmental Transmission of Political Involvement from Attitude Intensity to Political Participation" Annual meeting of the International Society for Political Psychology, San Francisco, CA (2010), with Carolyn Funk, Kevin Smith, and John Hibbing.

"Are Violations of the EEA Relevant to Political Attitudes and Behaviors?" Annual meeting of the Midwest Political Science Association, Chicago, IL (2010), with Kevin Smith, and John Hibbing.

"The Neural Basis of Representation" Annual meeting of the American Political Science Association, Toronto, Canada (2009), with John Hibbing.

“Genetic and Environmental Transmission of Value Orientations” Annual meeting of the American Political Science Association, Toronto, Canada (2009), with Carolyn Funk, Kevin Smith, Matthew Hibbing, Pete Hatemi, Robert Krueger, Lindon Eaves, and John Hibbing.

“The Genetic Heritability of Political Orientations: A New Twin Study of Political Attitudes” Annual Meeting of the International Society for Political Psychology, Dublin, Ireland (2009), with John Hibbing, Cary Funk, Kevin Smith, and Peter K Hatemi.

“The Heritability of Value Orientations” Annual meeting of the Behavior Genetics Association, Minneapolis, MN (2009), with Kevin Smith, John Hibbing, Carolyn Funk, Robert Krueger, Peter Hatemi, and Lindon Eaves.

“The Ick Factor: Disgust Sensitivity as a Predictor of Political Attitudes” Annual meeting of the Midwest Political Science Association, Chicago, IL (2009), with Kevin Smith, Douglas Oxley Matthew Hibbing, and John Hibbing.

“The Ideological Animal: The Origins and Implications of Ideology” Annual meeting of the American Political Science Association, Boston, MA (2008), with Kevin Smith, Matthew Hibbing, Douglas Oxley, and John Hibbing.

“The Physiological Differences of Liberals and Conservatives” Annual meeting of the Midwest Political Science Association, Chicago, IL (2008), with Kevin Smith, Douglas Oxley, and John Hibbing.

“Looking for Political Genes: The Influence of Serotonin on Political and Social Values” Annual meeting of the Midwest Political Science Association, Chicago, IL (2008), with Peter Hatemi, Sarah Medland, John Hibbing, and Nicholas Martin.

“Not by Twins Alone: Using the Extended Twin Family Design to Investigate the Genetic Basis of Political Beliefs” Annual meeting of the American Political Science Association, Chicago, IL (2007), with Peter Hatemi, John Hibbing, Matthew Keller, Nicholas Martin, Sarah Medland, and Lindon Eaves.

“Factorial Association: A generalization of the Fulker between-within model to the multivariate case” Annual meeting of the Behavior Genetics Association, Amsterdam, The Netherlands (2007), with Sarah Medland, Peter Hatemi, John Hibbing, William Coventry, Nicholas Martin, and Michael Neale.

“Not by Twins Alone: Using the Extended Twin Family Design to Investigate the Genetic Basis of Political Beliefs” Annual meeting of the Midwest Political Science Association, Chicago, IL (2007), with Peter Hatemi, John Hibbing, Nicholas Martin, and Lindon Eaves.

“Getting from Genes to Politics: The Connecting Role of Emotion-Reading Capability” Annual Meeting of the International Society for Political Psychology, Portland, OR, (2007.), with John Hibbing.

“The Neurological Basis of Representative Democracy.” Hendricks Conference on Political Behavior, Lincoln, NE (2006), with John Hibbing.

“The Neural Basis of Representative Democracy” Annual meeting of the American Political Science Association, Philadelphia, PA (2006), with John Hibbing.

“How are Political Orientations Genetically Transmitted? A Research Agenda” Annual meeting of the Midwest Political Science Association, Chicago Illinois (2006), with John Hibbing.

"The Politics of Mate Choice" Annual meeting of the Southern Political Science Association, Atlanta, GA (2006), with John Hibbing.

"The Challenge Evolutionary Biology Poses for Rational Choice" Annual meeting of the American Political Science Association, Washington, DC (2005), with John Hibbing and Kevin Smith.

"Decision Making on Behalf of Others" Annual meeting of the American Political Science Association, Washington, DC (2005), with John Hibbing.

"The Source of Political Attitudes and Behavior: Assessing Genetic and Environmental Contributions" Annual meeting of the Midwest Political Science Association, Chicago Illinois (2005), with John Hibbing and Carolyn Funk.

"The Source of Political Attitudes and Behavior: Assessing Genetic and Environmental Contributions" Annual meeting of the American Political Science Association, Chicago Illinois (2004), with John Hibbing and Carolyn Funk.

"Accepting Authoritative Decisions: Humans as Wary Cooperators" Annual Meeting of the Midwest Political Science Association, Chicago, Illinois (2002), with John Hibbing

"Can We Trust the NES Trust Measure?" Annual Meeting of the Midwest Political Science Association, Chicago, Illinois (2001), with Stacy Ulbig.

"The Impact of Organizational Structure on the Production of Social Capital Among Group Members" Annual Meeting of the Southern Political Science Association, Atlanta, Georgia (2000), with Allison Rinden.

"Isolating the Origins of Incumbency Advantage: An Analysis of House Primaries, 1956-1998" Annual Meeting of the Southern Political Science Association, Atlanta, Georgia (2000), with Kevin Arceneaux.

"The Electorally Indistinct Senate," Norman Thomas Conference on Senate Exceptionalism, Vanderbilt University; Nashville, Tennessee; October (1999), with John R. Hibbing.

"Interest Group Participation and Social Capital" Annual Meeting of the Midwest Political Science Association, Chicago, Illinois (1999), with Allison Rinden.

"We're All in this Together: The Decline of Trust in Government, 1958-1996." The Hendricks Symposium, University of Nebraska, Lincoln. (1998)

"Constituency Population and Representation in the United States Senate," Electing the Senate; Houston, Texas; December (1989), with John R. Hibbing.

"The Disparate Electoral Security of House and Senate Incumbents," American Political Science Association Annual Meetings; Atlanta, Georgia; September (1989), with John R. Hibbing.

"Partisan and Incumbent Advantage in House Elections," Annual Meeting of the Southern Political Science Association (1987), with David W. Brady.

"Personal and Party Advantage in U.S. House Elections, 1846-1986" with David W. Brady, 1987 Social Science History Association Meetings.

"The Demise of the Upper House and the Rise of the Senate: Electoral Responsiveness in the United States Senate" with John Hibbing, 1987 Annual Meeting of the American Political Science Association.

"A Comparative Analysis of Economic Voting" with Jerome Legge, 1985 Annual Meeting of the American Political Science Association.

"An Analysis of Economic Conditions and the Individual Vote in Great Britain, 1964-1979" with Jerome Legge, 1985 Annual Meeting of the Western Political Science Association.

"Can Government Regulate Fertility? An Assessment of Pro-natalist Policy in Eastern Europe" with Jerome Legge, 1985 Annual Meeting of the Southwestern Social Science Association.

"Economic Conditions and the Individual Vote in the Federal Republic of Germany" with Jerome S. Legge, 1984 Annual Meeting of the Southern Political Science Association.

"The Conditions Required for Economic Issue Voting" with John R. Hibbing, 1984 Annual Meeting of the Midwest Political Science Association.

"Incumbency Advantage in Senate Elections," 1983 Annual Meeting of the Midwest Political Science Association.

"Television Markets and Congressional Elections: The Impact of Market/District Congruence" with James Campbell and Keith Henry, 1982 Annual Meeting of the Southern Political Science Association.

"Economic Conditions and Senate Elections" with John R. Hibbing, 1982 Annual Meeting of the Midwest Political Science Association. "Pocketbook Voting: Economic Conditions and Individual Level Voting," 1982 Annual Meeting of the American Political Science Association.

"Increased Incumbency Advantage in the House," with John R. Hibbing, 1981 Annual Meeting of the Midwest Political Science Association.

Other Conference Participation:

Roundtable Participant – Closing Round-table on Biopolitics; 2016 UC Merced Conference on Bio-Politics and Political Psychology, Merced, CA.

Roundtable Participant “Genes, Brains, and Core Political Orientations” 2008 Annual Meeting of the Southwestern Political Science Association, Las Vegas.

Roundtable Participant “Politics in the Laboratory” 2007 Annual Meeting of the Southern Political Science Association, New Orleans.

Short Course Lecturer, "What Neuroscience has to Offer Political Science" 2006 Annual Meeting of the American Political Science Association.

Panel chair and discussant, "Neuro-scientific Advances in the Study of Political Science" 2006 Annual Meeting of the American Political Science Association.

Presentation, "The Twin Study Approach to Assessing Genetic Influences on Political Behavior" Rice Conference on New Methods for Understanding Political Behavior, 2005.

Panel discussant, "The Political Consequences of Redistricting," 2002 Annual Meeting of the American Political Science Association.

Panel discussant, "Race and Redistricting," 1999 Annual Meeting of the Midwest Political Science Association.

Invited participant, "Roundtable on Public Dissatisfaction with American Political Institutions", 1998 Annual Meeting of the Southwestern Social Science Association.

Presentation, "Redistricting in the '90s," Texas Economic and Demographic Association, 1997.

Panel chair, "Congressional Elections," 1992 Annual Meeting of the Southern Political Science Association.

Panel discussant, "Incumbency and Congressional Elections," 1992 Annual Meeting of the American Political Science Association.

Panel chair, "Issues in Legislative Elections," 1991 Annual Meeting of the Midwest Political Science Association.

Panel chair, "Economic Attitudes and Public Policy in Europe," 1990 Annual Meeting of the Southern Political Science Association

Panel discussant, "Retrospective Voting in U.S. Elections," 1990 Annual Meeting of the Midwest Political Science Association.

Co-convener, with Bruce Oppenheimer, of Electing the Senate, a national conference on the NES 1988 Senate Election Study. Funded by the Rice Institute for Policy Analysis, the University of Houston Center for Public Policy, and the National Science Foundation, Houston, Texas, December, 1989.

Invited participant, Understanding Congress: A Bicentennial Research Conference, Washington, D.C., February, 1989.

Invited participant--Hendricks Symposium on the United States Senate, University of Nebraska, Lincoln, Nebraska, October, 1988

Invited participant--Conference on the History of Congress, Stanford University, Stanford, California, June, 1988.

Invited participant, "Roundtable on Partisan Realignment in the 1980's", 1987 Annual Meeting of the Southern Political Science Association.

Professional Activities:

Other Universities:

Invited Speaker, Annual Lecture, Psi Kappa -the Psychology Club at Houston Community College, 2018.

Invited Speaker, Annual Allman Family Lecture, Dedman College Interdisciplinary Institute, Southern Methodist University, 2016.

Invited Speaker, Annual Lecture, Psi Sigma Alpha – Political Science Dept., Oklahoma State University, 2015.

Invited Lecturer, Department of Political Science, Vanderbilt University, 2014.

Invited Speaker, Annual Lecture, Psi Kappa -the Psychology Club at Houston Community College, 2014.

Invited Speaker, Graduate Student Colloquium, Department of Political Science, University of New Mexico, 2013.

Invited Keynote Speaker, Political Science Alumni Evening, University of Houston, 2013.

Invited Lecturer, Biology and Politics Masters Seminar (John Geer and David Bader), Department of Political Science and Biology Department, Vanderbilt University, 2010.

Invited Lecturer, Biology and Politics Senior Seminar (John Geer and David Bader), Department of Political Science and Biology Department, Vanderbilt University, 2008.

Visiting Fellow, the Hoover Institution, Stanford University, 2007.

Invited Speaker, Joint Political Psychology Graduate Seminar, University of Minnesota, 2007.

Invited Speaker, Department of Political Science, Vanderbilt University, 2006.

Member:

Editorial Board, Journal of Politics, 2007-2008.

Planning Committee for the National Election Studies' Senate Election Study, 1990-92.

Nominations Committee, Social Science History Association, 1988

Reviewer for:

American Journal of Political Science

American Political Science Review

American Politics Research

American Politics Quarterly

American Psychologist

American Sociological Review

Canadian Journal of Political Science

Comparative Politics

Electoral Studies

Evolution and Human Behavior

International Studies Quarterly

Journal of Politics
Journal of Urban Affairs
Legislative Studies Quarterly
National Science Foundation
PLoS ONE
Policy Studies Review
Political Behavior
Political Communication
Political Psychology
Political Research Quarterly
Public Opinion Quarterly
Science
Security Studies
Social Forces
Social Science Quarterly
Western Political Quarterly

University Service:

Member, University Senate, 2021-2023.

Member, University Parking Committee, 2016-2022.

Member, University Benefits Committee, 2013-2016.

Internship Director for the Department of Political Science, 2004-2018.

Member, University Council, 2012-2013.

Invited Speaker, Rice Classroom Connect, 2016.

Invited Speaker, Glasscock School, 2016.

Invited Speaker, Rice Alumni Association, Austin, 2016.

Invited Speaker, Rice Alumni Association, New York City, 2016.

Invited Speaker, Rice TEDxRiceU , 2013.

Invited Speaker, Rice Alumni Association, Atlanta, 2011.

Lecturer, Advanced Topics in AP Psychology, Rice University AP Summer Institute, 2009.

Scientia Lecture Series: "Politics in Our Genes: The Biology of Ideology" 2008

Invited Speaker, Rice Alumni Association, Seattle, San Francisco and Los Angeles, 2008.

Invited Speaker, Rice Alumni Association, Austin, Chicago and Washington, DC, 2006.

Invited Speaker, Rice Alumni Association, Dallas and New York, 2005.

Director: Rice University Behavioral Research Lab and Social Science Computing Lab, 2005-2006.

University Official Representative to the Inter-university Consortium for Political and Social Research, 1989-2012.

Director: Rice University Social Science Computing Lab, 1989-2004.

Member, Rice University Information Technology Access and Security Committee, 2001-2002

Rice University Committee on Computers, Member, 1988-1992, 1995-1996; Chair, 1996-1998, Co-chair, 1999.

Acting Chairman, Rice Institute for Policy Analysis, 1991-1992.

Divisional Member of the John W. Gardner Dissertation Award Selection Committee, 1998

Social Science Representative to the Educational Sub-committee of the Computer Planning Committee, 1989-1990.

Director of Graduate Admissions, Department of Political Science, Rice University, 1986-1988.

Co-director, Mellon Workshop: Southern Politics, May, 1988.

Guest Lecturer, Mellon Workshop: The U.S. Congress in Historical Perspective, May, 1987 and 1988.

Faculty Associate, Hanszen College, Rice University, 1987-1990.

Director, Political Data Analysis Center, University of Georgia, 1982-1985.

External Consulting:

Expert Witness, Soto Palmer v. Hobbs, (Washington State), racially polarized voting analysis, 2022.

Expert Witness, Pendergrass v. Raffensperger, (Georgia State House and Senate), racially polarized voting analysis, 2022.

Expert Witness, LULAC, et al. v. Abbott, et al., Voto Latino, et al. v. Scott, et al., Mexican American Legislative Caucus, et al. v. Texas, et al., Texas NAACP v. Abbott, et al., Fair Maps Texas, et al. v. Abbott, et al., US v. Texas, et al. (consolidated cases) challenges to Texas Congressional, State Senate, State House, and State Board of Education districting, 2022.

Expert Witness, Robinson/Galmon v. Ardoin, (Louisiana), racially polarized voting analysis, 2022.

Expert Witness, Christian Ministerial Alliance et al v. Arkansas, racially polarized voting analysis, 2022.

Expert Witness, Johnson v. Wisconsin Elections Commission, 2022.

Expert Witness, Rivera, et al. v. Schwab, Alonzo, et al. v. Schwab, Frick, et al. v. Schwab, (consolidated cases) challenge to Kansas congressional map, 2022.

Expert Witness, Grant v. Raffensperger, challenge to Georgia congressional map, 2022

Expert Witness, Brooks et al. v. Abbot, challenge to State Senate District 10, 2022.

Expert Witness, Elizondo v. Spring Branch ISD, 2022.

Expert Witness, Portugal v. Franklin County, et al., challenge to Franklin County, Washington at large County Commissioner's election system, 2022.

Consulting Expert, Gressman Math/Science Petitioners, Pennsylvania Congressional redistricting, 2022.

Consultant, Houston Community College – evaluation of election impact for redrawing of college board election districts, 2022.

Consultant, Lone Star College – evaluation of election impact for redrawing of college board election districts, 2022.

Consultant, Killeen ISD – evaluation of election impact for redrawing of school board election districts, 2022.

Consultant, Houston ISD – evaluation of election impact for redrawing of school board election districts, 2022.

Consultant, Brazosport ISD – evaluation of election impact for redrawing of school board election districts, 2022.

Consultant, Dallas ISD – evaluation of election impact for redrawing of school board election districts, 2022.

Consultant, Lancaster ISD – redrawing of all school board member election districts including demographic analysis and redrawing of election districts, 2021.

Consultant, City of Baytown – redrawing of all city council member election districts including demographic analysis and redrawing of election districts, 2021.

Consultant, Goose Creek ISD – redrawing of all board member election districts including demographic analysis and redrawing of election districts, 2021.

Expert Witness, Bruni et al. v. State of Texas, straight ticket voting analysis, 2020.

Consulting Expert, Sarasota County, VRA challenge to district map, 2020.

Expert Witness, Kumar v. Frisco ISD, TX, racially polarized voting analysis, 2019.

Expert Witness, Vaughan v. Lewisville ISD, TX, racially polarized voting analysis, 2019.

Expert Witness, Johnson v. Ardoin, (Louisiana), racially polarized voting analysis, 2019.

Expert Witness, Flores et al. v. Town of Islip, NY, racially polarized voting analysis, 2018.

Expert Witness, Tyson v. Richardson ISD, racially polarized voting analysis, 2018.

Expert Witness, Dwight v. State of Georgia, racially polarized voting analysis, 2018.

Expert Witness, NAACP v. East Ramapo Central School District, racially polarized voting analysis, 2018.

Expert Witness, Georgia NAACP v. State of Georgia, racially polarized voting analysis, 2018.

Appendix 2

EXPERT REPORT OF JOHN R. ALFORD, Ph.D.

Scope of Inquiry

I have been retained by the Georgia Secretary of State and State Election Board as an expert to provide analysis related to *Grant v. Raffensperger*, *Alpha Phi Alpha v. Raffensperger*, and *Pendergrass v. Raffensperger*. All three cases allege the current U.S. Congressional, state Senate, and state House districts in Georgia violate Section 2 of the Voting Rights Act. In early 2022, I provided a report and testified in the preliminary injunction hearing in this matter. I have examined the reports and supplemental reports provided by plaintiffs' experts Dr. Maxwell Palmer, and Dr. Lisa Handley in this case. My rate of compensation in this matter is \$500 per hour.

Qualifications

I am a tenured full professor of political science at Rice University. At Rice, I have taught courses on redistricting, elections, political representation, voting behavior and statistical methods at both the undergraduate and graduate level. Over the last thirty years, I have worked with numerous local governments on districting plans and on Voting Rights Act issues. I have previously provided expert reports and/or testified as an expert witness in voting rights and statistical issues in a variety of court cases, including on behalf of the U.S. Attorney in Houston, the Texas Attorney General, a U.S. Congressman, and various cities and school districts.

In the 2000 round of redistricting, I was retained as an expert to provide advice to the Texas Attorney General in his role as Chair of the Legislative Redistricting Board. I subsequently served as the expert for the State of Texas in the state and federal litigation involving the 2001 redistricting for U.S. Congress, the Texas Senate, the Texas House of Representatives, and the Texas State Board of Education. In the 2010 round of redistricting in Texas, I was again retained as an expert by the State of Texas to assist in defending various state election maps and systems including the district maps for the U.S. Congress, the Texas Senate, the Texas House of Representatives, and the current at large system for electing Justices to the State Supreme Court

and Court of Appeals, as well as the winner-take-all system for allocating Electoral College votes.

I have also worked as an expert on redistricting and voting rights cases at the state and/or local level in Alabama, Arkansas, Florida, Georgia, Kansas, Louisiana, Michigan, Mississippi, New Mexico, New York, Pennsylvania, Washington, and Wisconsin. The details of my academic background, including all publications in the last ten years, and work as an expert, including all cases in which I have testified by deposition or at trial in the last four years, are covered in the attached CV (Appendix 1).

Data and Sources

In preparing this report, I have reviewed the reports filed by the plaintiffs' experts in this case. I have relied on the analysis provided to date by Dr. Palmer and Dr. Handley in their expert reports in this case. I have also relied on various election and demographic data provided by Dr. Palmer and Dr. Handley in their disclosures related to their reports in this case. In addition, I relied on data on turnout by race for the 2022 Republican Primary election provided to counsel by the Georgia Secretary of State, and 2022 precinct-level election results for that election downloaded from the publicly available website of the Georgia Secretary of State.

Dr. Palmer's Reports

Dr. Palmer, in his report in *Pendergrass v. Raffensperger* dated 12/12/2022, provides the results of an EI election analysis that he used to assess Racially Polarized Voting (RPV) in each of 40 contests between 2012 and 2022, and reports the results in his Tables 1 through 6 for five U.S. Congressional districts and as a combined focus area. Similarly, in his report in *Grant v. Raffensperger* dated 12/12/2022, Dr. Palmer provides the EI results for the same 40 contests between 2012 and 2022 as reported in his Tables 2 through 6, for three Georgia House and two Georgia Senate focus areas. The race of the candidate preferred by Black voters is indicated in Dr. Palmer's tables with an asterisk by the name of each Black candidate, and the absence of an asterisk indicating a non-Black candidate. Across the 40 reported contests 19 of the preferred candidates are Black and 21 are non-Black, providing an ideal, almost equal distribution, for comparing both Black and white voter support for Black-preferred candidates that happen to be Black, with Black voter support for Black-preferred candidates that happen not to be Black.

However, despite having this data identified in his reports and the associated opportunity analyze it, there is no discussion of the impact, if any, that the race of the candidate might have on the behavior of Black or white voters in these contests. Also, Dr. Palmer provides no party labels in these tables, and does not mention the party of candidates in his discussion of the results of his analysis.

As evident in Dr. Palmer's Tables 1-6 in his *Pendergrass* report, and Tables 2-6 in his *Grant* report, the pattern of polarization is quite striking. Black voter support for their preferred candidate is typically in the 90 percent range and scarcely varies at all across the ten years examined from 2012 to 2022. Nor does it vary in any meaningful degree from the top of the ballot elections for U.S. President to down-ballot contests like Public Service Commissioner. While slightly more varied, estimated white voter opposition to the Black-preferred candidate is typically above 80 percent. In the *Pendergrass* Table 1 for the combined focus area, Dr. Palmer reports estimates of Black voter support that only varies between 96 and 99 percent when results are rounded to the nearest percent. White voter opposition to the Black preferred candidate is slightly more varied, but still remarkably stable, ranging in *Pendergrass* Table 1 only from 84.5% to 91.4 percent.

What accounts for this remarkable stability in the divergent preferences of Black and white voters across years and offices? It is clearly not Black voter's preference for Black candidates, or white voter's disinclination to vote for Black candidates. At 98.5 percent, the average Black support for the 19 Black candidates identified as Black in Palmer's *Pendergrass* Table 1 is indeed nearly universal, but so is the average 98.4 percent support for the 21 candidates identified as non-Black in Table 1. Similarly, the average white vote in opposition to the 19 candidates identified as Black in *Pendergrass* Table 1 is a clearly cohesive 88.1 percent, but so is the average 87.1 percent white voter opposition to the 21 candidates identified as non-Black. The same can said for Dr. Palmer's results in his *Grant* report where, for example, the average Black support for the 19 candidates identified as Black in Table 2 is 98.2 percent, and Black voter support for the 21 candidates identified as non-Black is a nearly identical 98.1 percent. Similarly, the average white vote in opposition to the 19 candidates identified as Black in *Grant* Table 2 is a clearly cohesive 90.1 percent, but so is the average 89.1 percent white voter opposition to the 21 candidates identified as non-Black.

If we do consider the party affiliation of the candidates, the pattern over these election contests is stark in both the *Grant* report and the *Pendergrass* report. In all 40 contests the candidate of choice of Black voters is the Democrat and the candidate of choice of white voters is the Republican.

In contrast, the race of the candidates does not appear to be influential. Black voter support for Black Democratic candidates is certainly high, as Dr. Palmer's Tables 2 through 6 in *Grant* and Tables 1 through 5 in *Pendergrass* clearly show, but those same figures also show Black voter support in the same high range for white Democratic candidates as it is for Black Democratic candidates. Similarly, white voter support for Black Democratic candidates is very low, but white voter support for white Democratic candidates is also very low.¹ In other words, there appears to be just one overarching attribute of candidates that uniformly leads to their relative acceptability or unacceptability among white voters and Black voters alike. And it is not the candidate's race. It is their party affiliation.

For example, in the 2022 contest for Governor in Dr. Palmer's *Pendergrass* Table 1 (his combined focus region) Stacey Abrams, the Black Democratic candidate, gets an estimated 98.5% of the Black vote, but in the same election in the adjacent Lt. Governor contest Charlie Bailey, a white Democrat, gets an almost identical estimated 98.4% of the Black vote. Looking at White voters a similar pattern is clear. Abrams gets an estimated 10.3% of the white vote, but in the same election in the adjacent Lt. Governor contest Baily, the white Democrat, received a similar estimated 12.1% of the white vote.

Similarly, in the 2021 U.S. Senate runoffs in Dr. Palmer's *Pendergrass* Table 1 (his combined focus region) Raphael Warnock, the Black Democratic candidate gets an estimated 98.7% of the Black vote, but in the same election in the other Senate contest Jon Ossoff, a white Democrat gets an identical estimated 98.7% of the Black vote. Looking at white voters a similar pattern is clear. Warnock, the Black Democratic candidate, gets an estimated 15.2% of the white vote, but in the same election in the other Senate contest, Ossoff, the White Democrat, gets an almost identical estimated 14.5% of the white vote.

¹ The limited evidence from the 2022 endogenous elections provided in Dr. Palmer's supplemental reports do not contradict this broad pattern.

Moving beyond his EI analysis, Dr. Palmer also provides reconstituted election results to demonstrate the success rate of Black preferred candidates in his focus areas. Given that as mentioned above the Black preferred candidate is always the Democratic candidate and given the dominance of political party in the EI results as discussed above, it is no surprise that these tables show stable performance for Democratic candidates across the 40 contests, regardless of race. For example, in Dr. Palmer's Table 7 in his *Pendergrass* report, the average vote share for the Democratic candidate is 41.7 percent in the 19 contests where the Democratic candidate is Black, and a very similar 42.3 percent in the 21 contests where the Democratic candidate is not Black.

In short, all that Dr. Palmer's analysis demonstrates is that Black voters provide uniformly high levels of support for Democratic candidates and white voters provide uniformly high levels of support for Republican candidates. There is no indication in these EI results that the high levels of Black voter support for Democratic candidates is connected in any meaningful way to the race of the Democratic or Republican candidates. Similarly, there is no indication in these results that the high levels of white voter support for the Republican candidates is connected in any meaningful way to the race of the Democratic or Republican candidates.

Dr. Handley's Report

Dr. Handley's December 12, 2022 report in *Alpha Phi Alpha* focuses first on general elections, and reports results similar to those reported by Dr. Palmer. Black voters support Democratic candidates and white voters support Republican candidates. She indicates that she has chosen to focus on racially contested elections, so this limits the ability to see whether this partisan pattern varies at all with the race of the candidates, but in the two contests without a Black Democrat, the Ossoff 2020 Senate contest and 2021 runoff, the results for both Black and White voters are very similar to the results for the racially contested elections, as was the case in Dr. Palmer's larger set of general elections.

Unlike Dr. Palmer, Dr. Handley also analyzes eleven racially contested statewide Democratic primaries. The results in these primaries are very different from the general election patterns. The general election pattern is a very important contrast to keep in mind when evaluating the results for these eleven primary contests. In the general elections, Black support for the Democratic candidate is very high and very stable in the upper 90% range. Similarly,

White voter opposition to the Democratic candidates is also high and stable in the 80 percent and up range.

While there is not currently a bright-line court standard for determining the level of support needed under *Gingles* prongs 2 and 3 to demonstrate cohesion, multiple plaintiffs' experts have recently discussed a minimum of 60 percent threshold for cohesion in a two-person contest. Simply having a preferred candidate (50 percent plus 1 in a two-candidate contest) is not sufficient. This is, of course, true by definition. If simply having a preferred candidate was sufficient to establish cohesion, then the *Gingles* 2 threshold test would always be met in two candidate contests and thus not actually constitute a test at all. As Dr. Palmer notes on page 4 of his *Pendergrass* report, "[i]f the group's support is roughly evenly divided between the two candidates, then the group does not cohesively support a single candidate". Even if a more stringent 75 percent or 80 percent threshold was the cohesion threshold standard, the results for the general elections provided by both Dr. Palmer and Dr. Handley clearly establish partisan polarization, with Blacks always favoring Democratic candidates at stable levels well above 80 percent, and whites favoring Republican candidates at similarly stable levels, typically above 80 percent.

Applying the 60 percent threshold for cohesion to the 40 general election contests in Dr. Palmer's *Grant* report or the 40 general election contests in Dr. Palmer's *Pendergrass* report, produces the same clear result. In 40 out of 40 contests, Black voters provide cohesive support to the Democratic candidate and white voters provide cohesive support to the opposing Republican candidate. This unequivocal result is what Palmer references as supporting his conclusion of polarized voting. As he states on pages 5-6 of his December 12, 2022 *Grant* report:

Black voters are extremely cohesive, with a clear candidate of choice in all 40 elections. In contrast to Black voters, Figure 2 shows that White voters are highly cohesive in voting in opposition to the Black-preferred candidate in every election across the five focus areas. Table 1 lists the average level of support for the Black-preferred candidate for Black and White voters in each focus area. Across all five focus areas, Black voters support their preferred candidate with an average of 98.5% and a minimum of 95.2% of the vote, and White voters support Black-preferred candidates with an average of 8.3% and a maximum of 17.7% of the vote. This is strong evidence of racially polarized voting across all five focus areas.

The same can be said for the 16 general election contests that Dr. Handley includes for each of her seven focus regions as reported in her Appendix C1-C7. In every one of the 16 contests examined in all seven regions, Black voter support for the Democratic candidate clearly exceeds 60 percent and in all the regular elections (excluding the one 20 candidate special Senate election in 2020) exceeded 90 percent. White voters provided cohesive support to the opposing Republican candidates exceeding 60% in every contest with the sole exception of the 2022 Senate contest in Appendix 1, where the white estimated vote fell just short of 60 percent at 59.3 percent.

As Dr. Handley, herself, states on page 9 of her December 23, 2022 Report:

Overall, the average percentage of Black vote for the 16 Black-preferred candidates is 96.1%. The average percentage of White vote for these 16 Black-preferred candidates across the seven areas is 11.2%. (When Ossoff is excluded, and only Black-preferred Black candidates are considered, the average White vote is slightly lower: 11.1 %.) The highest average White vote for any of the 16 candidates is 14.4% for Raphael Warnock in his 2022 general election bid for re-election. While the percentage of White support for candidates preferred by Black voters varies across the areas, in five of the seven areas the average did not even reach 10%. White crossover voting was the highest in the Eastern Atlanta Metro Region (Map 1), but only about one third of White voters typically supported the Black-preferred Black candidates in this area.

She finds similarly clear evidence of polarization when she considers the analysis of state legislative elections included in her Appendix B1 and B2, stating on page 9 of her December 23, 2022:

Nearly every one of the 54 of the state legislative elections analyzed (53 of the 54 contests, or 98.1%) was racially polarized. The estimates of Black and White support for the state legislative candidates in these contests analyzed can be found in Appendices B1 (State Senate) and B2 (State House). Black voters were quite cohesive in supporting Black candidates in these state legislative contests: on average, 97.4% of Black voters supported their preferred Black state senate candidates, and 91.5% supported their preferred Black state house candidate. Very few White voters supported these candidates, however: Black-preferred Black state senate candidates garnered, on average, 10.1% of the White vote; Black-preferred Black state house candidates received, on average, 9.8% of the White vote.

Based on their summary descriptions of their general election analysis, it is clear that both Dr. Palmer and Dr. Handley know what a convincing pattern of polarization looks like. That clear pattern is not present once candidate party labels are removed from the contest. Dr. Palmer

makes no effort to address this issue of conflating polarization in support for Democratic versus Republican candidates with racial polarization. Dr. Handley attempts to address the issue by providing analysis for eleven Democratic primaries in each of her seven focus regions.

But looking at the Democratic primary contests, as reported in Dr. Handley's Appendix C1-C7, the contrast to the pattern in the partisan general elects is stark. As detailed above, the pattern of Black voter support for Democratic candidates and white voter support for their Republican opponents in general elections is near universal, and both Black and white voters show strong and highly stable levels of cohesion. In contrast the pattern Dr. Handley identifies in the Democratic primaries is far from universal or stable. The support of Black voters for Black candidates varies widely, and seldom reaches above 80 percent. Similarly, white voter support for Democratic candidates is typically below 20% in the general elections, but in the primaries white support for Black candidates varies widely and is often fairly evenly divided. In many of the contests within Dr. Handley's six focus regions, for example, the votes of Blacks, whites, or both are divided too evenly to characterize the voting as cohesive. Even ignoring any concern for establishing minority or majority cohesion and applying a very loose standard of Blacks and whites simply preferring different candidates, Dr. Handley is only able to conclude that "the majority (55.8%) of the contests I analyzed were racially polarized" (page 10), a level not much above chance, and far below the 100 percent or 98.1 percent reported for general elections.

If we consider the *Gingles* 2 and 3 cohesion thresholds, even this slight result disappears. Using even a modest 60% standard for voter cohesion, Black voters vote cohesively for Black candidates in only 35 contests out of 77 (46 percent). If we add the instances where Blacks vote cohesively for white candidate that rises to 49 contests (64 percent of the 77 total). In those 49 contests, white voters cohesively opposed the Black preference in only 10 contests (20 percent of the 49 contests).

Herschel Walker Senate Race

The recent 2022 Republican U.S. Senate primary provides an additional racially contested primary to consider. Among the six candidates, the majority winner was Herschel Walker, one of the three Black candidates. Given that Black voters were less than 12 percent of the voters in any county in the state in that primary, and that Walker received a majority of the vote in every county in Georgia, it is clear the Walker was the preferred candidate among White voters

in the Republican primary. This can be seen as well in an initial look at EI estimates for the area covered in Dr. Handley's Appendix A1, reproduced below in Table 1 (Eastern Atlanta Metro Region – Map Area 1, Dekalb, Henry, Morgan, Newton, Rockdale, and Walton). With an estimated 62 percent support among Black voters, and 67 percent support among white voters, Walker is the preferred candidate of both Black and white voters in the Republican primary.

Table 1; Ecological Estimates of Voting Patterns by Race in the 2022 Republican U.S. Senate Primary for Dr. Handley's Eastern Atlanta Metro Region

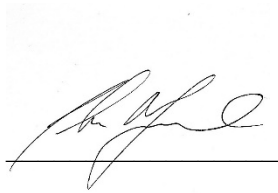
Last Name	Candidate Race	Black support	95% Confidence Interval		White Support	95% Confidence Interval		Other Support	95% Confidence Interval	
			Low	High		Low	High		Low	High
Herschel Walker	Black	62.4%	57.8%	67.4%	67.0%	66.3%	67.6%	5.3%	1.8%	11.7%
Kelvin King	Black	10.1%	7.7%	12.8%	2.5%	2.0%	3.0%	17.5%	12.5%	22.5%
"Jon" McColumn	Black	3.0%	1.7%	4.8%	0.9%	0.6%	1.2%	22.4%	18.8%	25.4%
Gary Black	white	12.8%	9.6%	16.2%	15.3%	14.5%	16.0%	9.3%	3.3%	17.0%
Latham Saddler	white	7.1%	4.1%	10.7%	12.7%	11.9%	13.5%	15.7%	7.8%	24.0%
Josh Clark	white	4.5%	2.7%	6.8%	1.6%	1.1%	2.2%	29.8%	23.7%	35.3%

Summary Conclusions

The partisan general election analysis report by Dr. Palmer and Dr. Handley show that Black voters cohesively support Democratic candidates, regardless of whether those candidates are Black or White. Similarly, white voters cohesively vote for Republican candidates, and in opposition to Democratic candidates, regardless of whether those Democratic candidates are Black or white. Thus, it is cohesive Black voter support for *Democratic* candidates, and white voter support for *Republican* candidates that the general election analysis reveals, not cohesive Black voter support for *Black* candidates and white voter support for *white* candidates. Nonetheless, the voting pattern is clearly one of partisan polarized voting, with both highly cohesive Black vote for the Democrat and highly cohesive white vote for the Republican candidate. The more limited analysis of Democratic primaries reported by Dr. Handley shows a very different picture of voting behavior from the general elections. Nothing even approaching the levels of Black and white cohesion seen in the general elections appears anywhere in the

primary contests, and the overall patterns are mixed and variable even within the same set of voters on the same day as we see in the multiple contests in the 2018 Democratic primary. Similarly, the 2022 U.S. Senate Republican primary indicates that white Republican primary voters are willing to support a Black Republican candidate over multiple white opponents.

February 6, 2023

A handwritten signature in black ink, appearing to read "John R. Alford", is written over a horizontal line.

John R. Alford, Ph.D.

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

GEORGIA STATE CONFERENCE)	
OF THE NAACP, ET AL.,)	
)	
PLAINTIFFS,	)	Case No. 1:21-CV-5338-
	)	ELB-SCJ-SDG
v.)	
)	
STATE OF GEORGIA, ET AL.,)	
)	
DEFENDANTS.)	
-----)	
)	
COMMON CAUSE, ET AL.,)	
)	
PLAINTIFFS,	)	Case No. 1:22-CV-00090-
	)	ELB-SCJ-SDG
v.)	
)	
BRAD RAFFENSPERGER,)	
)	
DEFENDANT.)	
-----)	

VIDEO RECORDED DEPOSITION OF BENJAMIN SCHNEER
(TAKEN by DEFENDANTS)
ATTENDING VIA ZOOM IN MIDDLESEX COUNTY, MASSACHUSETTS
MARCH 14, 2023

VIDEOGRAPHER: Krishan Patel
REPORTED BY: Meredith R. Schramek
Registered Professional Reporter
Notary Public
(Via Zoom in Mecklenburg County,
North Carolina)

Georgia State Conference of The NAACP, et al. v. S

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Georgia State Conference of The NAACP, et al. v. S

1 Deposition of Benjamin Schneer, taken by the
2 defendants via Zoom on the 14th day of March, 2023, at
3 9:05 a.m., before Meredith R. Schramek, RPR, Notary
4 Public.

5
6 C O N T E N T S

7 The Witness: BENJAMIN SCHNEER
8 Examination By Mr. Jacoutot5
9 Examination By Mr. Rollins-Boyd87

10
11 I N D E X of the E X H I B I T S

12	NUMBER	DESCRIPTION	PAGE
13	Exhibit 1	Notice of deposition	8
14	Exhibit 2	Expert report	9
15	Exhibit 3	Alford expert report	20

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P R O C E E D I N G S

THE VIDEOGRAPHER: Today's date is March 14, 2023, and the time is 9:05 a.m. This will be the remote videotaped deposition of Benjamin Schneer, PhD. Will counsel please introduce themselves and any objection to the witness being sworn in remotely.

MS. BERRY: No objection.

MR. JACOUTOT: No objection.

Crinesha, do you want to introduce yourself for the record first since y'all are the plaintiffs?

MS. BERRY: Sure. Crinesha Berry on behalf of Georgia NAACP plaintiffs with Crowell & Moring.

MR. JACOUTOT: And Bryan Jacoutot on behalf of the state defendants with Taylor English Duma.

MR. ROLLINS-BOYD: Marlin David Rollins-Boyd, the Lawyers' Committee for Civil Rights on behalf of the Georgia NAACP plaintiff group.

MS. HSU: Lily Hsu with Crowell & Moring on behalf of plaintiffs.

MR. JAMIESON: Nathan Jamieson from Dechert on behalf of Common Cause plaintiffs.

MS. SMITH: Casey Smith from the ACLU for the Alpha Phi Alpha plaintiffs in the coordinated case.

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Whereupon,

BENJAMIN SCHNEER,

having been duly sworn,

was examined and testified as follows:

MR. JACOUTOT: So this will be the deposition of Benjamin Schneer taken by the state defendants for purposes of discovery and all purposes allowed under the Federal Rules of Civil Procedure and the Federal Rule of Evidence.

Ms. Berry, I think I've agreed in the past, but I just want to check and make sure it's okay with you to continue doing where the objections except those going to form of the question and responsiveness of the answer or attorney-client privilege are reserved until trial or until first use of the deposition. Does that work for you?

MS. BERRY: Yes.

MR. JACOUTOT: And do you want to have the witness read and sign after the deposition?

MS. BERRY: Yes.

MR. JACOUTOT: Okay. Great.

EXAMINATION

BY MR. JACOUTOT:

Q So, Dr. Schneer, my name, as I said, is Bryan Jacoutot, and I represent the state defendants. The

1 purpose of this deposition is not to confuse you in any
2 way. So if I ask a question that you don't understand,
3 can we agree that you will let me know, and I'll try
4 and rephrase it for you?

5 A Sure.

6 Q And since we're doing this over Zoom, it's
7 really important that, for the court reporter, you
8 speak clearly and loud enough so that she can hear.
9 And be sure to audibly say "yes" or "no" rather than
10 nodding your head or saying "uh-huh" or "uh-uh" as it
11 doesn't necessarily always cleanly come out on the
12 record. So if you could do that, I would appreciate
13 it.

14 If you need a break at any time, let me know.
15 We can take as many as we need. The only thing I would
16 ask of you is if I have a question pending to you, if
17 you would answer that question before we take the
18 break. Is that agreeable?

19 A Yes.

20 Q Okay. Great. And can you again state your
21 full name for the record?

22 A Benjamin Hayman Schneer.

23 Q And the address you're at, is that your
24 office, or is that the office of your attorneys?

25 A Do you mean currently?

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1 Q Yes.

2 A We're using a conference room at another law
3 firm.

4 Q Okay. And is there anybody in the room with
5 you, or are you just by yourself?

6 A I'm with Crinesha Berry and Lily Hsu.

7 Q Okay. Are you on any medications that might
8 keep you from fully and truthfully participating today?

9 A No.

10 Q And do you have any medical conditions that
11 might keep you from fully and truthfully participating
12 today?

13 A No.

14 Q Have you ever been arrested?

15 A No.

16 Q So never convicted of a crime?

17 A No.

18 Q Have you or a family member ever filed any
19 election-related lawsuits?

20 A No.

21 Q Prior to your deposition today, did you
22 discuss this case with anybody?

23 A Only the attorneys that I've been working
24 with.

25 Q Okay. With respect to this specific

1 deposition, apart from your attorneys, did you discuss
2 this deposition with anybody?

3 A No.

4 Q Did you review anything to prepare for your
5 deposition today?

6 A Yes.

7 Q What did you review?

8 A I reviewed my expert report. I reviewed the
9 rebuttal report. And I reviewed parts of Moon Duchin,
10 another expert, parts of her report.

11 Q Okay. And the rebuttal report you're
12 referring to there, is that the report filed by
13 Dr. John Alford?

14 A Yes.

15 Q Okay. I know you have some of this listed in
16 your CV that you attached to your report, but can you
17 just briefly go through an overview of your educational
18 history beginning with high school and up through your
19 PhD in terms of dates attended and what school you
20 attended?

21 A Sure. Is it possible to call up my CV just
22 so I don't mix anything up?

23 (Exhibit 1 Marked for Identification.)

24 BY MR. JACOUTOT:

25 Q Yeah. Let me -- actually, before we get into

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1 that, I'll just put a few exhibits into the Exhibit
2 Share so we can have them to look at. So the first one
3 is kind of unrelated to this line of questioning. But
4 it is your notice of deposition. So I'm going to pull
5 that up and send it to you real quick. Give me one
6 second.

7 A Okay. I see something marked Exhibit 0001.

8 Q Okay. And this is the defendants' notice to
9 take your deposition. Do you see that in the title
10 there?

11 A It's cut off. It just says Exhibit 0001.

12 Q Down towards the bottom in bold and
13 underlined, do you see the document title there?

14 A Yeah. There we go. Okay. Yes.

15 Q Okay. And did you receive this?

16 A I'm just receiving it now.

17 Q Okay. So you hadn't seen this before?

18 A Yeah. This is the first time I've seen this
19 document.

20 Q Okay. So did your -- I guess your attorneys
21 just kind of informed you that you had your deposition
22 today?

23 A Yes.

24 (Exhibit 2 Marked for Identification.)

25

1 BY MR. JACOUTOT:

2 Q Okay. All right. Now I'm going to introduce
3 your report. This might take a second because it's
4 kind of a bigger file. So it might be a minute before
5 it shows up. But I'm going to go ahead and mark it as
6 Exhibit 2.

7 And if you could, when it comes through, if
8 you could kind of scroll through it and make sure that
9 it is the report that you filed in this action. You
10 don't have to do an exhaustive, you know, look over
11 everything but just make sure that it looks like what
12 you filed.

13 A Yeah. It looks like what I filed.

14 Q Great. So if you want to scroll down to your
15 CV and kind of refresh your recollection, then we can
16 go through your education briefly.

17 A Okay.

18 Q I'm sorry. Let's just -- I'll just go ahead
19 and ask you kind of in order starting with high school.

20 Where did you attend high school?

21 A I attended Decatur High School.

22 Q Is that in Georgia?

23 A That is.

24 Q Okay. And what years did you attend there?

25 A I guess would be 1997 to 2001.

1 Q Okay. And your undergrad?

2 A I attended Columbia University from 2001 to
3 2005.

4 Q And did you double major in political science
5 and history? Is that what I saw?

6 A No. I believe it was economics and history.

7 Q Economics and history. Sorry about that.
8 Political science and history are often those majors
9 that go together in undergrad.

10 So then after that, did you go out into the
11 workforce, or did you go straight into grad school?

12 A I worked for a couple years.

13 Q And where did you work?

14 A I worked as a research assistant at Stanford
15 Law School for about a year. And I worked at a
16 consulting firm in Emeryville, California, for about a
17 year or maybe -- I don't totally recall. It was a year
18 or two. And then I did a master's degree in economics
19 at Stanford. And I finished that in 2010. And then
20 from -- I think from 2010 until 2016, I was in the
21 government department at Harvard where I earned first a
22 master's in political science and then a PhD in
23 political science in 2016.

24 Q Okay. Were you working at all while you were
25 in the government department in school?

1 A I wasn't working -- I mean, I'm not totally
2 sure how to answer that. I was working for various
3 professors and did some consulting work and that sort
4 of thing.

5 Q I'm sorry. Go ahead.

6 A No. That's it.

7 Q Okay. And in this work that you were doing
8 with the various professors, were you being paid to do
9 it, or was it part of your curriculum?

10 A Both. There is some research projects where
11 I was -- where I wasn't paid, and then there was some
12 work where I was paid.

13 Q Okay. For your MA in economics at Stanford,
14 was there any sort of concentration, any sort of subset
15 of economics that you focused on?

16 A No. It was a general degree.

17 Q Okay. Do you recall where you graduated in
18 the class for the economics master's?

19 A I couldn't tell you.

20 Q Okay. So you went out into the workforce for
21 a little while between your undergrad and getting your
22 master's at Stanford. Have you told me all the places
23 that you worked at during those years?

24 A Yes. I worked as a research assistant, and I
25 worked at a consulting firm.

1 Q Okay. And what was your sort of line of work
2 at the consulting firm?

3 A So this is a firm that I think is now
4 defunct. But it was called Law and Economics
5 Consulting Group, LECG. And it was -- we were doing
6 statistical analyses applied to legal questions.

7 Q Okay. Were -- the statistical analyses
8 applied to legal questions, did they have anything to
9 do with voting?

10 A No.

11 Q What sort of issues did you get into?

12 A This is a while ago. So I can't say I
13 remember every single thing. But a typical case would
14 be like a patent infringement type case.

15 Q Interesting. And when you went on to take
16 your -- the master's at Stanford, were you working as a
17 consultant during that time, or was it a full-time
18 student?

19 A I was not working at a consultant -- as a
20 consultant during that time. Yeah.

21 Q Okay. And were you working as a research
22 assistant during that time?

23 A Yeah. I worked as a research assistant some
24 of that time.

25 Q Okay. And who did you assist?

1 A Let's see. So I think during that time, if I
2 recall, I would have worked with a professor named
3 Gavin Wright. And I also -- if you recall, I
4 previously had worked as a research assistant before
5 starting the master's for a professor called Alison
6 Morantz. And so I continued doing a bit of work with
7 her as well.

8 Q Okay. So we'll turn to your involvement in
9 this case. Actually, before we get to that, just one
10 more question on your education. You received your PhD
11 in political science from Harvard University in 2016;
12 is that right?

13 A Yes.

14 Q Was there any sort of concentration during
15 that program? Did you concentrate at all in any area
16 of political science?

17 A Yes. So for that, my concentration was -- so
18 what I did my sort of like fields in would have been
19 American politics and quantitative methods.

20 Q Did you focus on any particular era of
21 American politics?

22 A I mean, I had pretty broad-based views. But
23 my general area of interest is, was, and continues to
24 be elections, political representation, things of that
25 nature.

1 Q Okay. And the quantitative methods portion
2 of that focus, that was dealing with elections as well?

3 A Yes. Statistical methods applied to the
4 study of American politics. And for my particular
5 focus, mostly it had to do with, yeah, my substantive
6 areas of interest which were elections, political
7 representation, redistricting, and so on.

8 Q Okay. So turning to this case, when were you
9 first contacted to file -- to or file an expert report
10 in this matter?

11 A I believe I was first contacted sometime in
12 2021.

13 Q '21? Did you file a report in the
14 preliminary injunction action in this matter?

15 A I did not.

16 Q Okay. Do you know if you were contacted
17 after the preliminary injunction hearing?

18 A I'm not sure. I don't know when that was.

19 Q Actually, it was February 2022 if I recall
20 correctly.

21 A Presumably.

22 Q It wouldn't have been then? Okay. Do you
23 recall who contacted you?

24 A Attorneys from the Lawyers' Committee.

25 Q Okay. And what were you told that you were

1 being hired for?

2 A If I recall, I was just told that -- I was
3 told that they were interested in a -- in analyzing
4 voting behavior in Georgia. So the question of if
5 there was racially polarized voting particularly.

6 Q Do you have any connection with lawyers that
7 contacted you prior to this action?

8 A No.

9 Q Do you know how they located you?

10 A I don't.

11 Q Okay. Were you told what the plaintiffs were
12 hoping to prove or their position on the issues in this
13 case when you were contacted?

14 A No.

15 Q And are you being retained by the plaintiffs
16 in these cases or by the law firms?

17 A I think that's a good question. I guess
18 officially I would -- I'm retained by Crowell.

19 Q So you'd say -- do you send your bills to
20 Crowell?

21 A Yeah.

22 Q Okay. And what sort of -- well, let me
23 rephrase that.

24 Do you charge an hourly rate for your
25 services?

1 A Yes.

2 Q And what's that hourly rate?

3 A \$350 an hour.

4 Q Okay. And have you been paid thus far in the
5 case?

6 A No.

7 Q Do you know about how much time you've billed
8 so far?

9 A I couldn't tell you exactly. But I would say
10 it's over 100 hours but less than 200.

11 Q Okay.

12 A I'm not exactly sure.

13 Q Okay. Do you have any expectation about how
14 much more you expect to bill in this case?

15 A I don't have any expectation, no.

16 Q Have you been hired to testify -- excuse me.
17 Let me rephrase that. One moment. We'll get back to
18 that in a second.

19 Are you currently offering expert reports on
20 racially polarized voting in any other active
21 litigation?

22 A No.

23 Q Okay. And have you worked with -- the
24 plaintiffs in this case, have you worked with them in
25 any other cases before?

1 A No.

2 Q And have you worked with the attorneys in
3 this action in any other cases?

4 A Not -- not to my knowledge, no.

5 Q You listed the facts that you relied on in
6 your report; right?

7 A Can you -- what do you mean by that?

8 Q Did plaintiffs' counsel provide you with any
9 facts or data that is not listed in your reports and
10 that you considered when forming your opinions?

11 A No. Yeah. All the data I used is listed in
12 my report.

13 Q Did plaintiffs' counsel tell you to make any
14 assumptions prior to forming your opinion in this case?

15 A They did not tell me to make any assumptions
16 prior to forming my opinions in this case, no.

17 Q Okay.

18 A Yeah. No.

19 Q And I believe you said you reviewed the
20 report of Dr. Alford?

21 A Yes.

22 Q And would you agree that Dr. Alford is an
23 expert in the areas touched on by his report?

24 A I'm actually not familiar with Dr. Alford.
25 So I have no reason -- I just don't have an opinion on

1 it.

2 Q At least in part, Dr. Alford uses your report
3 and the data contained in it to form his own analysis
4 regarding the issue of polarization in the elections
5 you considered; right?

6 A He comments on it, the data.

7 Q And he uses the -- his report essentially
8 uses the data that you use and the analysis that you
9 did; right?

10 A I guess so. I mean, I think -- you know, my
11 take on it is he reads the report and makes a comment
12 on it. I don't know -- he's not doing any additional
13 analysis to my knowledge.

14 Q Okay. Do you take any issue with reports
15 being analyzed this way?

16 A Sorry. What do you mean by that?

17 Q Do you professionally have any problem with
18 another expert or another political scientist using the
19 data analysis that you provide and using it in their
20 report rather than replicating, say, another EI
21 analysis on their own?

22 A Well, I guess what do you -- I guess, it
23 depends on what you mean by "have a problem with it."
24 I think that it's -- I mean, to be clear, I think that
25 it's fine to comment on other people's work.

1 Absolutely. I mean, how convincing it is is another
2 matter; right?

3 Q Right. And maybe I'll drill down just a
4 little bit more. So you use ecological inference in
5 your analysis; right?

6 A Yes.

7 Q And you're confident that the EI analysis you
8 performed is credible within the field of political
9 science?

10 A I am.

11 Q And so do you see any benefit to Dr. Alford
12 performing his own EI analysis of the data you analyzed
13 for purposes of his own report? In other words, do you
14 expect his results would differ significantly from the
15 results you found?

16 A I would expect that he would find similar
17 results to what I found. I think it could be a useful
18 exercise for him to perform the analysis just to check
19 for himself. But I wouldn't expect it to be different.

20 Q Okay. So you're comfortable with the
21 statistical value of your analysis?

22 A I am.

23 (Exhibit 3 Marked for Identification.)

24 BY MR. JACOUTOT:

25 Q So one of the things Dr. Alford -- and while

1 we're talking about him so much, let me pull up his
2 report and send it over to you. This will be marked
3 Defendants' Exhibit 3. And I'm sending it over to you
4 now. So let me know when you've got it.

5 A Yes, I've got it.

6 Q And is this the same report from Dr. Alford
7 that you reviewed prior to your deposition, the
8 rebuttal report?

9 A Yes.

10 Q Okay. So one of the things Dr. Alford does
11 in his report is use the analysis you provided in order
12 to determine whether the data supports your conclusion
13 that there's racially polarized voting in Georgia in
14 the geographic areas you analyzed. Is that fair?

15 A That's what -- yes. That's fair.

16 Q And he determined that your results do not
17 support the conclusion that black and Hispanic voters
18 in Georgia are voting for candidates on account of
19 their race; right?

20 A That was what he wrote in his report.

21 Q And to be clear, you did not look at whether
22 party affiliation better accounts for the voting
23 behavior of black and Hispanic voters than does the
24 race of the candidate; right?

25 A Yeah. So I did not look at that question. I

1 think the reason why is that I'm engaged in -- my goal
2 here is to describe how people are voting. And so, you
3 know, the challenge we're facing is we want to
4 understand why -- or we want to understand voting
5 behavior for different racial groups. Because of the
6 secret ballot, we don't observe how these different
7 groups are voting.

8 Ecological inference, the goal I'm setting
9 out to meet is to describe how these different racial
10 groups are voting. And so that was the goal of my
11 report, and that's what I did.

12 Q Okay. That's fair enough. And that was --
13 my next question was why. So thank you.

14 All right. Now we can turn to your report
15 which is, I believe, Exhibit 2. So if we can scroll to
16 page 3.

17 A Okay.

18 Q Okay. It states in paragraph 3 that you have
19 worked as a consultant on several matters related to
20 voting rights and redistricting; is that right?

21 A Yes.

22 Q I think it says you coauthored along with
23 Professor Gary King the analyses of the Arizona
24 Independent Redistricting Commission, Congressional and
25 Legislative District maps submitted on behalf of the

1 commission to the department of justice in 2012?

2 A Yes.

3 Q First, that's the same Gary King that
4 developed ecological inference; right?

5 A Yes.

6 Q Okay. So when you were working on these,
7 were you a student at the time?

8 A I was a graduate student in the government
9 department at Harvard. In this particular matter,
10 though, I was a coauthor on the project and report.

11 Q Okay. Were you paid for your work on this
12 analysis?

13 A Yes.

14 Q And describe the nature of the consulting
15 work that you performed for this matter.

16 A So I was -- we were working for the Arizona
17 Independent Redistricting Commission, which is, you
18 know, tasked with redrawing the maps in Arizona for the
19 congressional and legislative districts.

20 At the time, Arizona was a state that was
21 subject to Section 5 of the Voting Rights Act. And so
22 any changes that they made to their maps, you know, had
23 to be precleared in some way. And so as part of that,
24 we analyzed racially polarized voting. In the previous
25 maps and in the maps they were, you know, planning to

1 try to enact and studied racially polarized voting in
2 those maps.

3 Q Okay. And did the commission hire you?
4 Excuse me.

5 Did the commission hire you as a consultant
6 or did Professor King?

7 A That's a good question. I can't say I
8 totally recall the details of that. It was a while
9 ago. But if I -- I think -- if I recall, I mean, I
10 think I was paid by Professor King's consulting firm.
11 But I don't really recall any, like, specific contract
12 or agreement.

13 Q And this consulting that you did, did you
14 testify at any point in before -- well, let me ask you
15 this. We can strike that question.

16 But in the consulting work that you performed
17 here, did you -- did you go before the commission to
18 state your opinions, or was it just contributing to the
19 report?

20 A No. If I recall, we went -- I think we went
21 before the commission and had to present the report, if
22 I recall.

23 Q Okay. So in 2012 you were a student at
24 Harvard; right?

25 A Yes.

1 Q And that would be in the -- I guess that
2 would have been sort of towards the end of your
3 master's in your political science?

4 A Well, so I think probably -- let's see.
5 Yeah. It would have been -- you know, so the way it
6 worked at Harvard was a master's degree was kind of on
7 the way to getting a PhD. So I guess officially I was
8 granted the master's probably in like May or June of
9 2012. And so I think I would have been -- you know, I
10 don't totally remember the exact dates, but I think I
11 was probably working for the Arizona Independent
12 Redistricting Commission for 2011, more 2011 with maybe
13 parts of 2012.

14 Q Okay. How long is the -- is that program to
15 get the PhD at Harvard? Because it looks like it might
16 be six years after -- a six-year program or something.

17 A There's no set time. I mean, for me it took
18 six years. Some people it takes longer. Some people
19 it takes shorter.

20 Q Okay. So you were also a consultant on the
21 racially polarized voting analysis prepared for the
22 Virginia Redistricting Commission in 2021; is that
23 right?

24 A Yes.

25 Q And were you paid for this work?

1 A Yes.

2 Q Do you recall how much?

3 A I believe it was \$350 an hour.

4 Q Okay. Do you recall by who you were paid?

5 A So I think in that case, I was paid by, I
6 believe it would have been, Max Palmer's consulting
7 firm, which is just an LLC I think.

8 Q Okay. And Max Palmer, does that refer to
9 Dr. Max Palmer who is an expert in some of the
10 companion cases here?

11 A Yes.

12 Q Okay. And so you say -- it doesn't say who
13 you were a consultant for in the report. So when you
14 say you were a consultant, it was for Dr. Palmer's LLC?

15 A No. I mean, we -- again, we coauthored a
16 report that we submitted to the Virginia Independent
17 Redistricting Commission. So I think as a matter of,
18 like, the payment, it went through Dr. Palmer's LLC.
19 But I would say, you know, given that I was coauthoring
20 the report and we were, you know, presenting to the
21 commission, I would say I was a consultant to the
22 commission.

23 Q Okay. And I think you describe it as --
24 let's see here. It says "I also have worked as a
25 consultant on the racially polarized voting analysis

1 prepared for the Virginia Redistricting Commission in
2 2021."

3 When you say "the," are you saying that it
4 was only the report submitted? Because typically, as I
5 understand it, there are multiple parties that might be
6 submitting reports.

7 A That's a good question. I actually don't
8 know the answer if there were other analyses or not.

9 Q Okay. Do you know what the outcome was? Did
10 the -- I'll rephrase that.

11 Did the commission accept your report?

12 A Yeah. They accepted the report. Yeah, to my
13 knowledge. I mean, this was a report that was meant to
14 inform them as they were drawing the maps. So it
15 was -- it's a little bit less cut and dry than, for
16 example, in the Arizona case where we were submitting
17 it, and there was like a specific goal of getting the
18 map precleared.

19 Q In this report, did you prepare any
20 illustrative maps as a part of your analysis?

21 A No. We were just analyzing maps that were
22 given to us.

23 Q And determining whether they were racially
24 polarized -- excuse me -- determining whether the
25 districts -- strike that.

1 You said you were analyzing maps and that
2 analysis included the analysis of whether those maps
3 contained districts that were racially polarized?

4 A We looked at a variety of different
5 geographic levels including at the district level, yes.

6 Q Okay. Is this the first time you've prepared
7 an expert report in a lawsuit where you analyzed
8 racially polarized voting in a Section 2 claim?

9 A Yes.

10 Q Let's turn to your executive summary. So it
11 states kind of at the beginning here that "Based on my
12 analysis, quote, I find that there is evidence of
13 racially polarized voting," and it goes on to say that
14 you find it in Georgia overall in some of the senate
15 districts and some of the legislative districts as
16 well. And we won't go into the specific breakdown
17 because that's later in your report.

18 But you also state that you analyzed -- that
19 you primarily analyzed racially polarized voting
20 between black and white voters but in a handful of
21 districts identified by plaintiffs, you analyzed
22 racially polarized voting between black and Hispanics
23 and white voters; is that right?

24 A Yes.

25 Q So you said these districts, these were

1 identified by plaintiffs?

2 A Yes.

3 Q Did the plaintiffs tell you -- did the
4 plaintiffs tell you why they selected these districts?

5 MS. BERRY: I object to the extent this calls
6 for privileged communications.

7 BY MR. JACOUTOT:

8 Q Well, when you say also -- Dr. Schneer, when
9 you say that the plaintiffs told you, you're referring
10 to the plaintiffs' attorneys; right?

11 A Yes.

12 Q Okay. I think in paragraph 6 below you list
13 which of the congressional districts and the state
14 senate districts and the state legislative districts
15 that you find racially polarized voting; is that right?

16 A Yeah. Yes.

17 Q Okay. And then we don't have to go through
18 the breakdown. But it's safe to say that you find
19 racially polarized voting in the vast majority of them
20 with only a handful of areas that don't have racially
21 polarized voting or are not convincing enough to
22 demonstrate racially polarized voting?

23 A That's accurate.

24 Q What is an example of a district where you
25 were -- you were not convinced that there was enough

1 evidence to show racially polarized voting?

2 In other words, you know, there's --
3 obviously there's sort of districts where there's
4 clearly not racially polarized voting. What was one
5 where there was some evidence but not enough for you to
6 categorize it as racially polarized voting if you
7 recall?

8 A If I recall, Congressional District 5 is an
9 example of that where -- so first maybe I should
10 clarify what I mean by "racially polarized voting." So
11 to me, racially polarized voting means, first, are
12 minority voters voting cohesively for a candidate for
13 choice.

14 Second are -- is a majority group voting
15 cohesively or voting as a bloc for a different
16 candidate of choice.

17 And third, the other element to this is given
18 that pattern of voting, does the bloc voting by the
19 majority group prevent the minority group from electing
20 their candidate of choice. So that's what I mean by
21 "racially polarized voting."

22 And so in my report, you know, to look at
23 this, I'm looking at first the patterns of voting
24 behavior and then what I term performance, which is
25 just is the majority, in this case white voters, voting

1 as a bloc to prevent minority voters from electing
2 their candidates of choice.

3 And so an example of where I didn't find
4 enough evidence to definitively say there was racially
5 polarized voting I think would be CD 5. And the reason
6 is because it's not clear from the analysis that white
7 voters were voting as a bloc for a different candidate
8 of choice as minority voters.

9 Q Okay. And if they're not voting as a bloc --
10 excuse me.

11 What if the white voters are voting as a bloc
12 for a different candidate than the candidate of choice
13 for minority voters, but that bloc -- that white bloc
14 voting is insufficient to actually defeat the
15 minority-preferred candidate, would you still find
16 racially polarized voting in that situation or no?

17 A Well, I guess -- so if it's a scenario
18 where -- where minority voters are still able to elect
19 their candidates of choice, then, you know, the pattern
20 of voting might be racially polarized, but I don't
21 think it's like legally significant, you know, as --
22 you know, it doesn't meet all the standards I just
23 mentioned.

24 Q Okay. Not legally significant. And do you
25 have a definition for what you characterize as legally

1 significant racially polarized voting as distinct from
2 racially polarized voting that is not legally
3 significant?

4 A It's just that -- the definition I already
5 gave is what I would say it was. I think -- I guess
6 what I would say is I think outside of a legal context,
7 racially polarized voting could just refer to this
8 pattern of different groups voting differently. For
9 the specifics of a case such as this one, it's the
10 definition I just gave.

11 Q Okay. And we'll come back to that because I
12 think you go into the definition, you know, a few times
13 in your report. And I'm just going to go sort of
14 chronologically -- not chronologically. I'm just going
15 to go through paragraph by paragraph to make it linear.
16 So thank you for that.

17 So if we go to paragraph 7. Let's see here.
18 If you can just read that paragraph for me and let me
19 know.

20 A Sorry. Just one moment. It's -- okay. I've
21 read the paragraph.

22 Q Thank you. So in that paragraph, that first
23 sentence of that paragraph, when you say -- at the end
24 of that first sentence says "could clearly result in
25 greater minority representation," are you referring to

1 the ability of minority groups to elect their candidate
2 of choice or the ability of minority groups to elect
3 minority candidates?

4 A I am specifically referring to being able to
5 elect their candidate of choice.

6 Q Okay. And is that sort of what matters to
7 you in a racially polarized voting analysis?

8 A Electing candidates of choice? Yes.

9 Q Yeah. I guess it matters to you more --
10 excuse me. Not more. When you're doing your racially
11 polarized voting analysis and you're determining what,
12 as you describe, as legally significant racially
13 polarization, what you're looking for is whether the
14 minority group is able to elect their candidate of
15 choice, not necessarily that they're able to elect
16 minority candidates; right?

17 A Yeah. So to clarify, one of the assumptions
18 I went into this report with, which is my own
19 assumption is that the most -- you know, basically
20 the -- of all the elections I looked at since 2012, you
21 know, roughly half of them in Georgia have a minority
22 candidate facing a nonminority candidate. Georgia is a
23 big state in that regard in that many states don't have
24 so many elections where a minority candidate is facing
25 a nonminority candidate. And so I knew that in some

1 past legal cases, not necessarily in Georgia but, for
2 example, in the ninth circuit, that they had said that
3 elections between a minority candidate and a
4 nonminority candidate were more probative than other
5 elections. And so because Georgia's a state where
6 there are so many of those elections, I just went in
7 with the sort of assumption that those could be a way
8 of focusing my analysis and looking at that subset of
9 elections.

10 So the focus of my report is on these 20 or
11 so elections where a minority candidate is facing a
12 nonminority candidate. But I analyze all the
13 different -- you know, all the different elections. I
14 think they're all valuable to look at. And ultimately,
15 the thing I'm interested in most is electing candidates
16 of choice specifically.

17 Q And if we actually go down to paragraph 8, I
18 think this might sort of explain this because I noticed
19 this throughout your report, but we can just use this
20 paragraph 8 for example as now -- for an example for
21 now, is that you seem to be almost using the terms
22 minority-preferred candidate and minority candidate
23 interchangeably. So if you compare the first sentence
24 in paragraph 8 referencing minority-preferred
25 candidates and the ability to elect them, the remainder

1 of that paragraph talks exclusively of minority
2 candidates.

3 A I'm sorry if that was unclear. That's not
4 what I was doing in my view. So what I did was I
5 determined the minority-preferred candidate, so the
6 candidate of choice, at the statewide level. And that
7 is what I'm referring to by the minority-preferred
8 candidate.

9 Subsequently, because I'm focusing my
10 analysis on candidates facing where -- general
11 elections where a minority candidate is facing a
12 nonminority candidate and because, when I ran the
13 statewide analysis, the minority-preferred candidate
14 was the minority candidate in those -- in that subset
15 of elections is true that those things coincide. But,
16 you know, I mean, I tried to make it clear in the
17 report those are kind of distinct concepts. For
18 example, in the elections between two candidates where
19 no minority is running, I still am talking about a
20 minority-preferred candidate.

21 Q But you don't think those -- you wouldn't
22 categorize those elections without a minority
23 candidate -- strike that.

24 Even though there are minority-preferred
25 candidates running in elections where there are no

1 minority candidates, you would prefer to analyze the
2 elections where there are at least one minority
3 candidate because those are more probative of racial
4 polarization?

5 A I wouldn't say I would prefer to analyze
6 those. That was just an assumption I made to structure
7 the report based on some past things I was aware of.
8 But I think it's valuable to look across all the
9 elections given that some people have said that
10 elections between a minority and nonminority are more
11 probative. And given that Georgia is a state where
12 there are many of those elections, I focused some of
13 the analysis on those elections.

14 Q And you focused on those elections with a
15 minority candidate because you agree with the courts
16 that have said that they're more probative in terms of
17 a racial polarization analysis?

18 A No. I actually don't necessarily agree. But
19 I was aware of that finding. And so I view that as a
20 tougher standard. And the thing about Georgia is, you
21 know, there are -- there are all of these elections.
22 And so it's possible -- you know, and so it's possible
23 to analyze them.

24 In a state where there are no minority
25 candidates running, I still think it's possible to do a

1 valuable analysis of racially polarized voting as well.
2 So yeah. So it wasn't my own personal belief that led
3 me to make that particular choice in how I structured
4 the report.

5 Q Okay. So I just want to be clear. You said
6 that you don't necessarily agree that election contests
7 featuring one minority candidate versus a nonminority
8 candidate are more probative in a racial polarization
9 analysis?

10 A Yeah. I'm not sure. What I'm saying is I
11 was aware of that finding. I think it's complicated.
12 And I'm aware that that's a standard some people use.
13 I view it as a stricter standard and one that's
14 possible to meet in Georgia because there are all of
15 these elections.

16 Q But certainly, it affected how you drafted
17 your report because, as you stated, you focused on
18 those elections; right?

19 A Right. Certainly, it affected how I drafted
20 the report, yes.

21 Q Okay. And to be clear, if you go down to
22 Footnote 18 on page 13, you state that "An election
23 between minority and nonminority candidates provides
24 variation in the race of the candidate and therefore
25 offers a test of whether race might matter in vote

1 choice among different voter groups"; right?

2 A Yeah.

3 Q So that seems -- is it fair to say that that
4 is you -- your acceptance of the courts -- of certain
5 courts' view that election contests featuring one
6 minority candidate versus a nonminority candidate are
7 more probative for the purposes of racial polarization?

8 A Sorry. My acceptance? Can you explain --

9 Q Yeah. It seems that you're accepting the
10 view because, well, you stated a couple of times that
11 you're focusing on not -- the election contests with --
12 that feature a minority candidate versus a nonminority
13 candidate. And then you also provide in the footnote
14 that it offers sort of a distinct test as to whether
15 race might matter in vote choice among different voter
16 groups.

17 So I'm just trying to make sure that I
18 understand your view. Because when I read that in the
19 report coupled with the focus on those contests, it
20 seems to me that you, as the author of the report, are
21 sort of agreeing with the notion that those contests
22 are more probative and thus more valuable to examine
23 than contests featuring only two white candidates. But
24 in your deposition today, it -- I don't think -- you're
25 saying that that's not true. Do I have that right?

1 A I mean, I think we're sort of splitting hairs
2 here. It's a slight distinction. What I'm saying is I
3 think in this -- in Georgia where ultimately, as you
4 see in the report, I find, you know, pretty clear
5 instances of racially polarized voting. And where
6 there are a variety of these different types of
7 elections, I think it's possible to meet that standard.
8 So given that, that that was the -- that was sort of
9 the idea I had in looking at this. Yeah.

10 Q Okay. And just -- the Footnote 18 refers
11 back up to -- is contained in paragraph 21. And I just
12 want to quote that portion of the report to you where
13 you say "I rely" -- excuse me. "While I estimate RPV
14 results for all statewide general elections since 2012,
15 I rely on those elections in which a minority candidate
16 was one of the two major party candidates running for
17 office as most probative for making inferences about
18 racially polarized voting."

19 So you agree that that's you accepting that
20 standard or --

21 A Let me put it this way. For the purposes of
22 this report, I think it meets that standard. And so --
23 and I'm showing that it meets that standard.

24 Q Okay. So help me sort of understand -- let
25 me recall back to the beginning of your report where

1 you stated that what you're viewing when you do conduct
2 your racially polarized voting analysis is you're
3 looking at the -- whether a minority group votes for a
4 particular candidate regardless of that candidate's
5 race. That's what matters; right?

6 A Sorry. Could you say that again?

7 Q Sure. We were talking earlier about, I think
8 it was -- I can go back up to paragraph 3 I think it
9 was in or maybe -- no. Okay. I think it's paragraph 7
10 where it states "In terms of minority groups' ability
11 to elect their candidates of choice in the enacted
12 congressional, state Senate, and state House districts
13 that I examine, revised maps could clearly result in
14 greater minority representation."

15 Do you recall us talking about that
16 paragraph?

17 A Yes, yes.

18 Q And I asked you what you meant when you were
19 referring to minority representation, whether you were
20 referring to minority candidates being elected or
21 minority-preferred candidates being elected; right?

22 A Yes.

23 Q I'm sorry. Go ahead.

24 A Yeah. And I said minority-preferred
25 candidates.

1 Q Okay. Now, on the other hand as we've
2 discussed already at paragraph 21, we find that -- your
3 paragraph -- excuse me. Your report states in
4 paragraph 21 that you rely on those elections in which
5 a minority candidate was one of the two major
6 candidates running for office as the most probative for
7 making inferences about racially polarized voting.

8 So my question is sort of how do these two --
9 how do these two things exist together? On the one
10 hand, you say that for purposes of the racially
11 polarized voting analysis, the salient question is
12 whether minority groups are able to select the same
13 preferred candidate regardless of race, but on the
14 other hand, what race matters as more probative --
15 what -- the race of a candidate matters and is more
16 probative. How are those two --

17 A I don't see the issue. So for me, I used
18 that standard of looking at elections between a
19 minority and nonminority candidate to just focus on
20 these 20 or so elections. But I do the analysis for
21 all of the elections and make a determination of the
22 minority-preferred candidate for all of the elections.

23 I find, you know -- and so to me, this thing
24 about the minority versus nonminority candidates is,
25 you know, looking within a particular election. When

1 that's the case, I sort of narrow down some of the
2 elections for purposes of discussion and to make the
3 point that it -- that the results in Georgia meet the
4 standard. But, you know, I'm still -- I'm not just
5 taking as given that a minority candidate is the
6 minority-preferred candidate. I do the statewide
7 analysis to determine what the minority-preferred
8 candidate is in every single election.

9 Q And I don't -- I don't mean to imply that you
10 are taking it as a given that the minority-preferred
11 candidate is a minority candidate. But I guess if a
12 minority-preferred candidate being a minority candidate
13 is more probative under the racial polarization voting
14 analysis, then the race of the candidate matters when
15 analyzing whether a district is racially polarized for
16 purposes of Section 2; right? Because how could it be
17 more probative but also not matter at the same time?

18 A Again, I'm not quite sure how to say it a
19 different way. In my view, the determination that
20 elections between a minority and nonminority candidate
21 were more probative helped me focus on the subset of
22 elections. But for these elections, I'm still
23 determining who the minority-preferred candidate is.
24 I'm running the same type of analysis. And I also look
25 at elections with two nonminority candidates. And so

1 to me, you know, the race of the candidate helps focus
2 the analysis. But, you know, I'm making a judgment for
3 each election is there racially polarized voting
4 occurring or not. And I feel confident in being able
5 to make that judgment for elections between two
6 nonminority candidates as well.

7 Q Okay. And your analysis shows that -- excuse
8 me.

9 You sort of state in your footnote here that
10 variation in the race of the candidate offers a test of
11 whether race might matter in vote choice among
12 different voter groups. Do you see that?

13 A Yes.

14 Q And your analysis -- sorry. I didn't want to
15 interrupt you.

16 A I was just saying yes, I see that.

17 Q Okay. And your analysis actually shows that
18 changing the race of the candidate does not affect the
19 behavior of the voting groups that you analyzed; right?

20 A So I don't agree with that. My analysis does
21 not show that. If you -- if you look at the line that
22 says "an election between a minority and a nonminority
23 candidate." So in my view, there's a difference
24 between looking within elections and looking across
25 elections. And so the thing I'm referring to here is a

1 particular single election with a minority versus a
2 nonminority candidate.

3 Q Okay. But I guess my question is -- so are
4 you -- my question was your analysis shows that
5 changing the race of the candidate does not affect the
6 behavior of voting groups that you analyzed, and you
7 disagree with that; right?

8 A Sorry. Could you state that again?

9 Q Yeah. Sorry. I said that a little fast.
10 Your analysis shows that changing the race of the
11 candidate does not affect the behavior of the voting
12 groups you analyze; correct? And then you said, "No.
13 I disagree with that"; is that right?

14 A Yes, I disagree with that statement. So, you
15 know, in my view, that's not what my analysis shows.

16 Q Okay. Let me direct your attention back to
17 Dr. Alford's rebuttal report, and it is on page 3.

18 A Okay.

19 Q And it says in the middle of the second
20 paragraph, basically in the middle of the page, it says
21 "In all 41 of the 41 election contests examined,
22 minorities showed cohesive voting for the democratic
23 candidate. In contrast, white voters cohesively
24 favored the Republican candidate. Clearly, the
25 partisan label of a candidate matters as there was only

1 minimal variation in the estimated vote shares across
2 10 years and 41 elections ranging from
3 top-of-the-ballot presidential contests to down ballot
4 contests like public service commissioner."

5 Do you see that?

6 A Yes, I see that.

7 Q And I think he says "The key question is
8 whether the variation of the race of the democratic
9 candidate matter to either minority or white voters."

10 And I understand that you do not agree with
11 Dr. Alford that that is the key question. Is that fair
12 to say?

13 A Well, I mean, yeah. So I guess taking a step
14 back, the way I read this paragraph and the report is
15 in the sense we're engaged in fundamentally different
16 enterprises. I'm trying to describe how racial groups
17 vote and who their candidates of choice are and if
18 they're voting cohesively.

19 It seems to me in this paragraph what
20 Dr. Alford is trying to do is determine what is causing
21 how they vote. So I am pretty careful, I think, in the
22 work that I'm doing in this report to be focused on
23 describing how people are -- because I don't believe
24 that we're necessarily positioned at least with the
25 data that I was analyzing to determine if, for example,

1 party is causing people to vote the way that they are.
2 And the reason is because, you know, what party you
3 affiliate with is a choice; right? In some sense it's
4 a downstream choice from things that, you know -- from,
5 for example, your racial identity; right? And so I
6 think all these other things affect the choice of what
7 party you're in. And so that makes it complicated to
8 actually attribute causality to party.

9 And so certainly, just by looking across
10 these elections and comparing across elections, what
11 Dr. Alford is identifying is a correlation; right? But
12 ultimately the statements he's making are about
13 causation, cause. And in my view, there's nothing in
14 my report or in his analysis of the report that lets
15 you prove from observing this correlation to making
16 these causal statements. So that's kind of the leap
17 where I most fundamentally disagree with Dr. Alford's
18 analysis.

19 Q Okay. A couple things I want to unpack from
20 that response. I think you mentioned that party can be
21 a downstream choice of race; is that right? I think
22 that's how you phrased it.

23 A Yeah. That -- you know, ultimately, party is
24 a choice people make that -- and I think you could say
25 that, in some sense, your racial identity precedes

1 that.

2 Q But your report that you're offering in this
3 case didn't analyze that issue at all; right?

4 A Right. Because, again, I'm trying to
5 describe how people are voting. I'm not trying to
6 determine what -- I think determining how -- you know,
7 explaining the causal factors that lead people to vote
8 the way that they do is a very -- is a complicated
9 enterprise. And that wasn't my goal with this report.
10 You know, my goal was to determine racially polarized
11 voting. And my understanding that I laid out earlier,
12 in terms of the definition, is one that can be met by
13 describing what people are doing. And so that's what I
14 sought out to do in terms of who they're voting for.

15 Q Yep. And I understand that. But I guess
16 what in your report do you see that -- do you see that
17 contradicts the statement that I made earlier that
18 said -- where I said your analysis shows that changing
19 the race of the candidate does not affect the behavior
20 of the voting groups that you analyzed?

21 Is there anything in your report that you can
22 point to that would contradict that?

23 A Sorry. Contradict? I mean, so I think
24 there's two pieces of that. One is there's this
25 descriptive pattern that you're describing. You're

1 describing that pattern accurately. The leap that
2 you're making though and that Dr. Alford is making is
3 that you can attribute a cause, that the party is the
4 cause of that. And what I'm saying is that there's not
5 evidence to make that leap.

6 Q But there's also not evidence to suggest that
7 changing the race of the candidate affects voter
8 behavior in your analysis; right?

9 A I mean, I don't know that we need to go back
10 over this all over again. But, again, the -- you know,
11 that's -- I don't believe that's what you can -- the
12 statement you just made I don't believe you can
13 conclude what you're saying from my report, no.

14 Q So black voters in Georgia are uniformly
15 voting in support of democratic candidates --
16 correct? -- in the races that you analyzed?

17 A Yes. That's correct.

18 Q By a very large margin. Is that fair to say?

19 A Based on my analysis, yes, that is fair to
20 say.

21 Q Okay. But it's not true that black voters in
22 Georgia exclusively favor black candidates running for
23 election in Georgia unless that black candidate is a
24 Democrat? It is true to say that. Let me rephrase
25 that because that's going to come out poorly.

1 It is fair to say that black voters in
2 Georgia favor black candidates in Georgia exclusively
3 when those black candidates are Democrats; right?

4 A I don't know. I mean, again, I'm looking
5 election by election.

6 Q And I'm referring to only the race -- the
7 election contests that you analyzed in your report. Do
8 you have any evidence in your report showing a
9 situation where black voters in Georgia voted
10 cohesively for a black Republican candidate?

11 A I don't have an election -- so first off, I
12 do not, no. But I also don't have an election where
13 even based on the standard that we've been disagreeing
14 over of a nonminority versus minority candidate where
15 there is such an election. So I would say I don't even
16 have the data to -- like, the answer is of course not
17 because there's not such an election that I'm aware of.
18 There is an election between two black candidates.

19 Q And in that election between two black
20 candidates, did the black voters of Georgia prefer the
21 black Democrat candidate or the black Republican
22 candidate?

23 A So I think you're referring to the Walker
24 versus Warnock election. And they preferred Warnock in
25 that election. But, again, while it's descriptively

1 true, I mean, these are people who also had very
2 different policy positions and so on. The leap I'm
3 taking issue with just overall is when Dr. Alford and
4 in some of these questions you start talking about the
5 party as this causal factor. And all I'm trying to say
6 is that my analysis is descriptive. And I don't think
7 that we're on sort of a firm grounding in social
8 science to make this leap to attribute causality to a
9 party.

10 Q Yeah. I definitely get that. And I'm not a
11 hundred percent sure that Dr. Alford is attributing a
12 causal connection in the statistical sense. Maybe the
13 attorneys, myself included, have discussed it more
14 colloquially or in a legal sense. But I don't see
15 anything in this report attributing a statistical
16 causality link between party polarization -- excuse
17 me -- a statistical causal link between the results
18 that you produced and party affiliation.

19 A I mean, he says "the partisan label of a
20 candidate matters." I mean, that's a causal
21 attribution in my view.

22 Q And your reports I think demonstrate that;
23 right?

24 MS. BERRY: Objection. Asked and answered.
25

1 BY MR. JACOUTOT:

2 Q You can answer.

3 A Okay. Again, I don't think that my reports
4 demonstrate that, no.

5 Q So it's your testimony that the data that --
6 the analysis that you provided doesn't demonstrate that
7 party affiliation matters to black voters in the
8 contests that you analyzed?

9 MS. BERRY: Objection. Asked and answered.

10 THE WITNESS: Yeah. So my testimony is that
11 I'm engaged in this exercise of trying to describe how
12 different racial groups vote. And I'm not saying that
13 party doesn't matter at all. But I'm saying that we're
14 not -- based on the analysis I do, we're not positioned
15 to say that it matters or the extent to which it
16 matters. Right.

17 BY MR. JACOUTOT:

18 Q Can you point to anything in your analysis
19 that demonstrates that the race of the candidate
20 matters to the black and Hispanic electorate of Georgia
21 in the cases -- excuse me -- in the contests that you
22 analyzed?

23 A That wasn't the goal of my analysis.

24 Q Okay. So -- but the answer then is that you
25 can't; correct?

1 A Sorry. That the -- I can't point to
2 something in the analysis that shows that the race of
3 the candidate matters. Is that the question?

4 Q Yeah.

5 A Well, I mean, I think that, again, I'm just
6 trying to describe how groups -- how these groups are
7 voting. It is the case that when a black candidate
8 faces a white candidate, we're finding that black
9 voters are cohesively supporting the black candidate.
10 So to the extent you look within an election, that
11 there's that choice. I'm finding support for that.
12 But, again, what I would -- like, I guess what I would
13 say I want to be cautious about the causal language.
14 Ultimately, I'm trying to describe the patterns of how
15 these different racial groups are voting.

16 MR. JACOUTOT: Okay. We've been going for an
17 hour 15 or so. Do you guys want to take 10-minute,
18 15-minute break and come back?

19 THE WITNESS: Sure. Let's do ten minutes.

20 MR. JACOUTOT: So come back at 10:25.

21 THE VIDEOGRAPHER: The time is 10:15 a.m.
22 We're off the record.

23 (Off the record 10:15 a.m. to 10:26 a.m.)

24 THE VIDEOGRAPHER: The time is 10:26 a.m.
25 We're on the record.

1 BY MR. JACOUTOT:

2 Q Okay. Welcome back, Dr. Schneer.

3 A Thank you.

4 Q I've got one more sort of question in line
5 with what we were talking about earlier. And I might
6 get an objection as to asked and answered. But I want
7 to make sure I phrase it the way I'm trying to get, and
8 then we can move on from this.

9 But my question is is there anything in the
10 report that you provided that indicates that the race
11 of the candidate affects the way black and Hispanic
12 voters are voting in the elections that you analyzed?

13 MS. BERRY: Objection. Asked and answered.
14 You can answer.

15 THE WITNESS: I can answer? Okay.

16 So my answer to that is that the thing I'm
17 trying to do is describe how different racial groups
18 vote and not to make causal attributions. But I do
19 show that for elections between a white and -- or a
20 minority and a nonminority candidate, that, in each of
21 those elections -- I think there's 20 or so of them --
22 the black voters and sometimes Hispanic voters in the
23 elections that I analyzed vote cohesively for the
24 minority candidate.

25

1 BY MR. JACOUTOT:

2 Q Okay. That's fine. Turning back to
3 paragraph 9, because we went a little bit out of the
4 order there but we were talking about it. So I figured
5 it was probably best to go into it. So we can turn
6 back to paragraph 9 though.

7 A Of my report?

8 Q Of your report, yes. Sorry. Let me and we
9 talked -- sorry. Let me know when you're there.

10 A Yes. Just a minute. Okay.

11 Q So we talked a little earlier about your
12 definition of racially polarized voting. And what I
13 see here at the beginning of paragraph 9 is sort of
14 effectively a definition that you used. And it says
15 "Racially polarized voting occurs when a majority group
16 and a minority racial group vote differently."

17 Is that fair to say that that's broadly the
18 definition that you used for racially polarized voting?

19 A It's fair to say broadly that's what it is.
20 You know, I think what I do in my report is I look
21 specifically at these three different elements. I
22 think I list two of them here. First, do minority
23 voters vote cohesively for a candidate of choice?
24 Second, do white voters the -- in Georgia, the
25 majority -- do they vote as a bloc for a different

1 candidate of choice? And then, third, what I term the
2 performance analysis in my report, but is it the case
3 that the white voters voting as a bloc prevent minority
4 voters from electing their candidates of choice? Those
5 three elements.

6 Q Okay. So you would consider an election
7 where 51 percent of black voters voted for Candidate A
8 and 49 of black voters voted for Candidate B along with
9 51 percent of white voters voting for Candidate B but
10 only 49 percent of white voters voting for Candidate A,
11 would you consider that a racially polarized election
12 because they are majorities, but they're bare
13 majorities?

14 A So the standard that I use in my report is
15 whether the lower confidence interval in my estimate
16 overlaps with the 50 percent threshold. So I guess the
17 problem with that scenario is I'm never observing with
18 certainty how these different groups are voting. So in
19 a way, I'm never confronted with that particular
20 issue -- right? -- because there's always some level of
21 uncertainty about the estimates.

22 And so the standard I use is the lower -- you
23 know, does the lower confidence interval overlap with
24 the 50 percent? Does the upper confidence interval for
25 the white voters overlap with 50 percent?

1 But the thing is in Georgia, the extent of
2 the racially polarized voting is so great, right, with
3 black vote -- that it's never -- I'm never confronted
4 anywhere to my knowledge with that scenario.

5 Q Okay. And something else when I was reading
6 the report, if we go to paragraph -- hold on. Sorry.
7 Okay. Footnote 1 in paragraph 9. So the footnote is
8 referring to a paragraph portion that says --
9 parenthetical, it says "(Specifically, do more than
10 half of white voters oppose the minority candidate of
11 choice?)"

12 And you phrase it in those sort of terms as
13 the minority candidate of choice as the salient
14 inquiry. But then the Footnote 1, which is referencing
15 a book from Bernard Grofman and Dr. Handley, the
16 footnote that is quoted -- excuse me. The portion of
17 that book that is quoted says that "Cohesiveness is to
18 be measured with reference to the voting patterns and
19 that minority groups are considered politically
20 cohesive if they vote together for minority
21 candidates."

22 How do you explain sort of the discrepancy
23 between the quoted material focusing on minority
24 candidates and the body of the paragraph which focuses
25 on minority candidate of choice?

1 A Yes. I mean, I think that that quote must be
2 referring to, you know, like maybe courts from a
3 particular circuit. So I mean, I think this brings us
4 back to the same set of issues we've been discussing
5 which is that is a stricter standard. And in Georgia,
6 as I see it, that standard is met, but also the looser
7 standard is met as well.

8 Q Okay. If you'll go to paragraph 12 for me.
9 It's a large paragraph. I'm looking for paragraph --
10 excuse me -- page 8. This paragraph 12 encompasses
11 both of those pages.

12 A Okay.

13 Q So you state that you use -- do you pronounce
14 it RxC EI or is it --

15 A Yes. RxC.

16 Q Okay. RxC method of ecological inference is
17 what you use. And you don't use any other method;
18 right? It's just strictly RxC EI analysis that you
19 conduct?

20 A Yes, that's correct.

21 Q Is there any reason why you use -- why you
22 don't include the other kind of widely accepted methods
23 of analysis whether it's a homogenous precinct or
24 ecological regression?

25 A In my view, the RxC method of ecological

1 inference kind of takes into -- sort of incorporates
2 the benefits of those methods. So specifically, the
3 RxC method of ecological inference does actually
4 incorporate the method of bounds which is sort of a way
5 of describing homogeneous precincts. So it takes
6 advantage of those precincts where you can put narrower
7 bounds on how groups are voting just based on how
8 homogeneous the precinct is. And then it also -- you
9 know, it's fundamentally doing something similar to
10 ecological regression which is looking at how --
11 essentially looking at the relationship between
12 variation in the racial composition of precincts and in
13 the vote choices of those precincts which is what
14 ecological regression is doing.

15 One advantage of ecological inference over
16 the ecological regression is with ecological
17 regression, because it's totally linear, you can
18 sometimes get estimates that are outside, that are
19 above one or below zero. It doesn't happen with the
20 ecological inference. So in my view, ecological
21 inference is incorporating kind of the benefits of
22 these other methods.

23 In practice, if you -- you know, there have
24 been studies sort of comparing the results you get
25 across these different methods. And in many cases,

1 ecological regression and ecological inference yield
2 very similar results. But at least some work I've seen
3 suggests that in some scenarios ecological inference
4 performs slightly better.

5 Q Okay. Let me -- let's look at the elections
6 that you examined. So if we go to paragraph 18 on
7 page 11.

8 A Okay.

9 Q You state that you estimate EI models using
10 statewide general elections occurring between 2012 and
11 2022. And there's a Footnote 16 referring to it looks
12 like the decision you made to not include the election
13 for the 2020 U.S. Senate special election.

14 A Right.

15 Q And I think you say the reason for this --
16 the reason for this is that the election is
17 qualitatively different from the others as it presents
18 an expanded set of candidates, multiple minority
19 candidates, and no candidate receiving a majority of
20 votes.

21 Is that fair to say that that's why you
22 decided just to exclude it?

23 A Yeah. I excluded it because -- I mean, yeah,
24 for those reasons. But mostly the multiple candidates
25 just makes it harder to draw a clear inference in my

1 view.

2 Q Okay. Is there -- do you see any benefit of
3 maybe including it but not allowing it to alter your
4 conclusions given its differences but still including
5 it in the report?

6 A I don't know. I'm not sure. I mean, I
7 guess, you know, ultimately, I didn't include it. I
8 guess you could make an argument of putting it in the
9 appendix. I don't think it matters really one way or
10 the other.

11 Q Okay. Paragraph 20, just the next page over,
12 you state in the second sentence that "Primary
13 elections may be of use in racially polarized voting
14 analysis, but in my view studying them is not necessary
15 or sufficient for drawing conclusions about racially
16 polarized voting in Georgia general elections."

17 If you're not studying primary elections, how
18 are you able to determine -- or are you able to
19 determine whether voters are simply voting for a
20 candidate based on their party as opposed to based on
21 their race?

22 A Well, again, that goes back to this kind of
23 fundamental point I'm trying to make, which is I'm not
24 trying to disentangle those things in my report. I'm
25 describing how these different racial groups vote,

1 which, in my understanding is what I need to know to
2 make this determination about racially polarized
3 voting.

4 I think the issue with the primaries is --
5 which I lay out in the report -- is that the -- you
6 know, for one, the electorates differ. So ultimately
7 what I'm interested in this report is electing
8 candidates of choice, which occurs in the general
9 election; right? And so to the -- you know, so there's
10 an element to which the electorate in the general
11 election is very different than in a primary election.
12 And so you can draw inferences about a primary
13 electorate that may or may not carry over to the
14 general election and vice versa. So that's kind of --
15 that's the caution I have with primaries. I don't
16 think that it's necessarily wrong to look at primaries.
17 But for -- in my view, for the -- what I'm doing in
18 this report it, as I said, was not necessary, nor would
19 it be sufficient to, for example, just look at
20 primaries.

21 Q Okay. I bring you down to paragraph 27.

22 A Okay.

23 Q The second sentence in paragraph 27 states
24 "When a minority candidate was not one of the two major
25 party candidates, minority voters continued to vote

1 cohesively supporting particular candidates at
2 overwhelming rates."

3 A Okay.

4 Q Is this consistency that you're observing
5 here among candidates regardless of whether they are a
6 minority or white indicate that race has little or no
7 effect on the choice of the minority electorate?

8 A In my view, no, it doesn't.

9 Q Okay.

10 A Just to clarify, again, I'm trying to
11 describe how people are voting. And so to draw like
12 this sort of a clear -- you know, to draw clear
13 conclusions about the causal effects of these various
14 issues we're speaking about, just -- that's not what
15 I'm trying to accomplish with my analysis.

16 Q Let me ask you this: Does -- let me put this
17 to you and let me see if you agree or disagree with me
18 though. The consistency that you observed there
19 doesn't demonstrate that race of a candidate matters to
20 the minority electorate? Is that fair to say?

21 A Can you say that one more time?

22 Q Yeah.

23 A There's a couple double negatives there.

24 Q Yeah. Sorry. It has a negative. So the
25 consistency that you're observing and commenting on in

1 paragraph 27, this does not demonstrate that race of
2 the candidate matters to the minority electorate;
3 right?

4 A The -- well, the quote that you read was
5 about when the minority candidate was not one of the
6 two major party candidates. So it's certainly -- when
7 I'm looking at two candidates of the same race, as you
8 had read out, in that case, I'm not making -- you know,
9 I don't see how I'd be in a position to make a judgment
10 about the race of the candidate.

11 Q So paragraph 27 says "The results are
12 generally similar across other elections I examined
13 with minority candidates."

14 So you were -- before that, you were talking
15 about how 96 percent of the Hispanic voters supported
16 Stacey Abrams in the 2018; right?

17 A Right. Yes. So earlier in the paragraph,
18 sure. Yes.

19 Q And then you say "The results are generally
20 similar across other elections I examined with minority
21 candidates."

22 A Right.

23 Q So fair to say that roughly similar results
24 for other minority candidates.

25 Then you go on to say "When a minority

1 candidate was not one of the two major party
2 candidates, minority voters continued to vote
3 cohesively supporting particular candidates at
4 overwhelming rates."

5 A Yes.

6 Q So when I asked you -- then I posed the
7 question to you, surely, this does not demonstrate that
8 race of the candidate matters to the minority
9 electorate; right? In other words, you don't look at
10 that data and conclude, well, race clearly -- race of
11 the candidate clearly matters. That's a fair
12 statement; right?

13 A Right. I mean, again, so just to sort of
14 retrace our steps here, I'm trying to describe how
15 people vote, not understand the reason -- you know, why
16 they vote the way they do. I look at elections between
17 a minority candidate and a nonminority candidate. And
18 in each of those cases, black voters and Hispanic
19 voters are cohesively voting for the minority
20 candidate. I'm not saying that doesn't mean anything.
21 What I'm just saying is that I'm not positioned to --
22 I'm not trying to do a causal analysis of the effect of
23 race on voting. That's all I'm trying to say.

24 Q Understood. And I'm essentially trying to
25 clarify the bounds of your analysis and what it does

1 and doesn't demonstrate or what it's being offered for.
2 And it sounds like we're on the same page because you
3 say, well, I didn't look at that. And of course, if
4 you didn't look at it, then you're not claiming that
5 your analysis demonstrates it; right?

6 A I don't think in my report I'm making any
7 causal statements at all. I mean, as we talked about,
8 I mean, I do -- you know, based on past findings, I do
9 look -- I do focus on these particular types of
10 elections. But, again, I'm just trying to describe
11 what is happening in these elections. And so
12 ultimately, I'm interested in candidates of choice, you
13 know, regardless of the race of the candidate.

14 Q Just give me a second. I'm just kind of
15 scrolling through the report.

16 If you could turn to paragraph 45 for me.
17 It's on page 36.

18 A Okay.

19 Q The second sentence says "I have elected to
20 report all results because with the Bayesian estimation
21 methods used for EI, they remain valid for even small
22 samples; however, it is worth noting that some
23 estimates will have wide confidence intervals, not
24 necessarily due to voter behavior but simply because of
25 the limited data available."

1 My first question is the Bayesian estimation
2 methods, can you describe what those are?

3 A Sure. I mean, in short, the approach is that
4 you're trying to -- I guess it depends how technical we
5 want to get here. I'll try to describe it in a couple
6 sentences.

7 Q Let's start with the least technical version
8 for me and then we can increase from there.

9 A Right. So I mean basically, it's a -- what
10 we're trying to do is, you know, we have -- we're
11 trying to understand voter behavior of these different
12 groups. We go into this exercise without knowing
13 really anything about how these different groups are
14 voting. We observe data; right? In this case, we
15 observe the precinct level election totals for
16 different candidates. And we observe the precinct
17 level racial composition of the electorate, of who
18 turned out to vote. And given the patterns in that
19 data, we can update our beliefs about how people are
20 voting.

21 And so what the Bayesian estimation is doing
22 is it's essentially taking a bunch of draws to
23 understand what distribution on the given parameters
24 describing how people vote, sort of explain the pattern
25 of data that we're observing.

1 And so ultimately what we get is a
2 distribution of different parameter values for each
3 racial group in terms of the candidates that they're
4 voting for. And so ultimately, you know, what we do to
5 get one point estimate is we take the mean of that
6 distribution of parameter values. And to get
7 confidence intervals, we take the 5th percentile and
8 the 95th percentile of the draws. And so the
9 distinction here is that in the Bayesian method, you
10 know, you're starting with this sort of uninformed
11 higher belief, and you're looking at the data to update
12 your belief.

13 So in theory, you could even just look at
14 one -- you know, one data point. You wouldn't update
15 your beliefs very much. But it's still -- you know,
16 it's still okay to do that. And it's reflected in the
17 uncertainty -- it would be reflected in the uncertainty
18 in the confidence intervals.

19 The distinction here is between this Bayesian
20 approach and, say, a frequentist approach where sort of
21 the -- being able to get a point estimate that you
22 think is accurate -- is accurate for the sort of true
23 underlying parameter that you're trying to estimate,
24 that relies on the sample getting larger and larger.
25 So that's -- really just the distinction I'm making

1 here is that I'm still producing estimates even if I
2 don't have that much data. And the uncertainty in
3 those estimates are going to be reflected in the wide
4 confidence intervals.

5 Q So using -- would you say using the Bayesian
6 function -- forgive me if that's not the right
7 vernacular. But Bayesian function helps at all with
8 minimizing the distribution of the confidence interval,
9 the size of the distribution? Or is it --

10 A No, no. It doesn't -- it doesn't do that at
11 all. It's just -- it's just a -- I mean, anytime
12 you're seeing ecological inference, to my knowledge,
13 people are using the same approach. And it's just the
14 method by which you're producing your estimates.

15 Q Okay. So I've heard of Bayesian -- in prior
16 cases I've worked on, we've discussed using Bayesian
17 improved surname geocoding for redistricting.

18 A Sure.

19 Q Is that similar to what's being used here?
20 It's just kind of aiding and filling in gaps from the
21 traditional EI analysis, or is it always used in EI
22 analysis?

23 A No, no. This is always -- this is the
24 traditional EI analysis.

25 Q Okay.

1 A People often just don't mention -- I mean,
2 this is maybe like too much information. But, you
3 know, often people just aren't mentioning the specific
4 method they're using to actually estimate the
5 parameters. It's a traditional EI analysis.

6 Q Okay. That makes sense. I appreciate that.
7 And you explained it perfectly well for
8 someone like me. So thank you.

9 So I want to kind of focus in on the part of
10 that sentence where it says, "However, it is worth
11 noting that some estimates will have wide confidence
12 intervals, not necessarily due to voter behavior but
13 simply because of limited data available."

14 Do you see that?

15 A Yes.

16 Q So if the confidence intervals are wide, how
17 does that -- or does it alter -- excuse me. Let me
18 rephrase that.

19 If the confidence intervals are wide, does
20 that alter your view on the usefulness of the data
21 presented?

22 A No, it doesn't. I mean, it depends on sort
23 of the pattern, the overall pattern of results; right?
24 So, you know, what I'm doing in that sentence is
25 explaining that, you know, ultimately, the confidence

1 intervals that you have on a point estimate, they
2 reflect a couple -- I'm just sort of pointing out that
3 they reflect a few different things; right? One thing
4 they could reflect is you just don't have that many
5 observations; right? Maybe you're analyzing a district
6 with just a few precincts. Or -- but it could also
7 reflect, in theory, something about voter behavior.

8 What I'm saying is that, you know, given that
9 I know that I'm looking at these -- you know, I guess
10 in this case I'm looking at House districts which are,
11 you know, geographically smaller and provide less data.
12 I'm just noting that the wide confidence interval is,
13 in my view, likely due to just having less data. And,
14 you know, so I guess what I would say is I think in a
15 case like that, it's just important to look at what the
16 results actually are; right? So it's a case-by-case
17 thing. And, you know, you can sort of assess for the
18 given estimates, are they all pointing in the same
19 direction? In what share of the time does the
20 95 percent interval include the 50 percent threshold?
21 And at what point does it not? And make some sort of a
22 judgment about -- you know, about the elections you're
23 looking at.

24 Q And that sort of touches on my next question
25 because like when I look at an estimate -- or excuse

1 me -- a EI analysis that contains, you know, a
2 confidence interval that's extremely wide, like 30,
3 40 points, something like that, 50 points even, I
4 instinctively will not chalk up as much value to the
5 median figure that's presented because -- you know, as
6 distinct from seeing a confidence interval that's,
7 let's say, between 97 and 98 and you put your median at
8 97.5, I feel that there's a high degree of confidence
9 in that median value closely representing the reality
10 of the election that you're analyzing. So I don't feel
11 as confident in, let's say, you have a confidence
12 interval that spans from 50 -- or let's say 45 to 75
13 and, you know, you have your median value there at --
14 and I'm forced to do math -- 60. I think it's 60. I
15 don't know. Don't hold me to that.

16 Do you see what I'm saying? Is that how you
17 view the confidence intervals? Or do you view them
18 affecting the value of the median value provided at all
19 or no?

20 A Well, so just to clarify a little bit. So,
21 you know, generally the point estimate is the mean of
22 the different distributions. And so, you know, the
23 point estimate is still the point estimate. I think
24 there's value in knowing what that point estimate is.
25 But I do agree that, you know, the confidence interval

1 reflects the uncertainty in the estimate. So to the
2 extent it's -- you know, for example, if -- taking it
3 to an extreme, if you had a confidence interval that
4 ranged from zero to a hundred, certainly in that case,
5 you know, there's a lot of uncertainty in the estimate.
6 It is less informative than what -- where it's a very
7 narrow confidence interval. So I certainly agree with
8 that statement.

9 I think when you're looking at, you know,
10 a -- when you're looking at small districts and you
11 are, you know, trying to understand what's going on in
12 them, I think ultimately you have to look at the
13 balance of the data as well. I do think if you have a
14 bunch of point estimates all pointing in the same
15 direction, that's also informative. So I guess I don't
16 think there's a hard and fast rule for this. You know,
17 I think you have to kind of look at the estimates and
18 make a case for what's reasonable, you know, given the
19 uncertainties you have in the estimates.

20 Q Okay. That makes sense. So if we can turn
21 to page 44 of your report. It's the top of the page.
22 It's entitled "Clusters."

23 A Okay.

24 Q Can you just kind of describe to me or -- is
25 using clusters something that you typically would do in

1 a report on racially polarized voting?

2 A Yeah. So in this section of the report, I'm
3 using clusters that were created by the map drawing
4 expert Moon Duchin. Yes. I do think -- yes, I mean, I
5 think it is reasonable to -- I don't know exactly what
6 the right language is -- clusters, regions, this sort
7 of thing. You know, I think in instances where you
8 want to understand the voting behavior in a particular
9 region of a state or part of a state, I think it's
10 totally reasonable to study the voting behavior, you
11 know, in that particular region of the state. So
12 essentially, that's what the clusters are doing. Yeah.

13 Q So if you go to paragraph 54, I want to just
14 talk to you broadly about it. If you want to just read
15 it to yourself and then let me know, we can talk about
16 it.

17 A Okay.

18 Q So you note that where there is a minority
19 candidate against a nonwhite minority candidate,
20 confidence intervals never overlap the 50 percent
21 threshold for these elections. And because of that,
22 you have, I guess, a high degree of confidence that
23 Hispanic voters are joining black voters in supporting
24 the same candidate of choice. Is that fair? You don't
25 write that, but that's sort of what I'm getting when I

1 read it.

2 A Yeah. I think -- well, I think -- I'm just
3 trying to remember what this paragraph is saying. I
4 mean, I think, you know, it's a little bit --
5 essentially that's what I'm saying. I mean, I think,
6 you know, I refer to the Atlanta cluster in particular.

7 Q You say "For the other House clusters, while
8 there are some uncertainties, my estimates, again,
9 suggest that Hispanic voters support the same candidate
10 as black voters in all the past statewide elections
11 that I examined."

12 So is the uncertainty that you're referencing
13 there due to the fact that the confidence interval does
14 dip below the 50 percent threshold in some of these
15 House clusters?

16 A Yeah. Exactly. You know, in each case,
17 the -- I believe in each case the point estimate -- so,
18 you know, if I had to give you my best estimate of the
19 vote share for a particular candidate of choice among a
20 given voter group, my best estimate is that Hispanic
21 voters are joining with black voters to vote for the
22 same candidates. But, you know, in some of these
23 regions, for example, there's not -- you know, Hispanic
24 voters don't comprise, like, a huge share of the
25 electorate. For various reasons, the estimates are a

1 bit more uncertain. And that's what I'm referring to.
2 Yeah.

3 Q So you're commenting more on the -- really on
4 the general trend in the race of the clusters that you
5 examined rather than any specific election contest
6 because -- is that fair?

7 A Well, so I'm studying election by election
8 here. And I'm just interpreting the results, you know,
9 election by election. And, you know, if you look
10 election by election, there are certain elections where
11 the point estimate is that Hispanic voters share the
12 same candidate of choice as black voters but that
13 there's some uncertainties in that estimate. That's
14 essentially what I'm referring to.

15 Q Okay. What about like a case -- a
16 situation -- this is a bit of an outlier in the chart
17 obviously. You can just tell by looking at it. But if
18 you look at the Atlanta SD 2018 secretary of state
19 runoff on page 47, which is the table sort of
20 reflecting these analyses.

21 A Yeah.

22 Q That one has a confidence interval that, you
23 know, is predominantly below the 50 percent threshold,
24 and the mean point is also below the 50 percent
25 threshold. That particular race -- for that particular

1 election contest, would you consider that cohesive
2 voting amongst Hispanic and black voters?

3 A No. I mean, that's a, you know, that's --
4 that is definitely an outlier. And, you know, I think
5 it's worth noting that in a runoff election,
6 electorate's also different, right, than the general
7 election electorate. And -- but, yeah, in that case,
8 if you were just looking at one specific election, you
9 know, the estimate for the Hispanic voters, it wouldn't
10 be -- I wouldn't have -- you know, I wouldn't -- I
11 wouldn't use that election to conclude that, in that
12 election, Hispanic voters are joining black voters for
13 the same candidate of choice.

14 Q Okay. So then, you know, the uncertainty
15 that you're referring to in paragraph 54 is the
16 confidence interval's dipping, but you conclude
17 nonetheless -- excuse me. Is the confidence interval
18 dipping below 50 percent amongst black and Hispanic
19 voting populations? But you include nonetheless that,
20 because of the general pattern in all the races --
21 election contests that you're examining, you're
22 still -- you're still willing to say that Hispanic
23 voters supported the same candidates as black voters in
24 all of the past statewide elections?

25 A No. I mean, I'm trying to make a judgment

1 about racially polarized voting as it has occurred
2 historically in this region of Georgia. And I look
3 election by election. And in particular, I guess,
4 the -- you know, I'm actually focusing, again, on the
5 majority versus minority -- elections pitting a
6 minority versus a nonminority candidate, which it turns
7 out is not the case for either of those runoff
8 elections. So that's I think the -- that explains,
9 like, the specifics of that language.

10 But, again, yeah. I mean, I'm looking
11 election by election. And in, I think -- I guess -- I
12 mean, I said in the report. So I guess it must be in
13 all of those elections where a minority versus
14 nonminority candidate face each other, the
15 minority-preferred candidate coincides for black voters
16 and Hispanic voters. And Atlanta, the confidence
17 interval for Hispanic voters never overlaps with the
18 50 percent threshold for those elections.

19 Q Yeah. That makes sense. I think it's
20 helpful to put it into context of it being a minority
21 versus a nonminority election. So I'm just confused
22 how --

23 A I mean, but just to be clear, you know,
24 looking across all the elections and making those
25 judgments election by election for all the elections I

1 examined, I mean, I still think that that Atlanta graph
2 is pretty strong evidence of racially polarized voting
3 because in the vast, vast, vast majority, when the case
4 of times when you go election by election, there's in
5 my view, clear, you know, given the -- based on the
6 standard I'm using, racially -- you know, minority
7 voters, in this case Hispanic voters and black voters
8 are both supporting the same candidate of choice and
9 white voters are voting for a different candidate of
10 choice.

11 Q Okay. Yep. Gotcha. So if you could turn to
12 paragraph 59 for me.

13 A Okay.

14 Q "CD 7 is a multi-racial district in which no
15 one racial group comprises a majority of the
16 electorate. Based on historical elections, minority
17 candidates in these statewide elections would have
18 received a majority in the district 65 percent of the
19 time. And candidates" -- I'll leave it at that.

20 So 65 percent of the time in the CD 7,
21 minority candidates in the statewide elections would
22 have received a majority, thus won that congressional
23 district; right?

24 A Yeah. I agree that the language is a little
25 bit much to parse. But that's what I mean, yes.

1 Q Okay. So is it fair to say that the white
2 voting bloc here, such that there is one, isn't voting
3 cohesively to usually defeat the minority candidate?

4 A Yeah. So in CD 7, 65 percent of the time,
5 the candidate of choice for the minority voters is
6 winning. So I mean, that's a relatively -- you know,
7 in the scheme of things for Georgia, I think that might
8 be the most competitive district. And so that's just
9 what that reflects.

10 Q Would you say CD 7 demonstrates racially
11 polarized voting in your analysis?

12 A Sorry. I just lost the place. So to go
13 back, for CD 7, I believe I -- you know, if we go
14 through the different elements of this, first, if I
15 recall, minority voters had a clear candidate of
16 choice. White voters had a different candidate of
17 choice. And I think I -- I don't know if I used the
18 term borderline or not. But, you know, that's one
19 where sometimes that -- you know, sometimes bloc voting
20 by the majority does prevent minority groups from
21 electing their candidate of choice. Sometimes it
22 doesn't. So I think it's kind of borderline is the way
23 I would characterize it.

24 Q But given that the minority candidate wins
25 65 percent of the time, it's fair to say that the white

1 voting bloc doesn't vote usually to defeat the minority
2 candidate; right? To me, "usually" suggests more than
3 half the time.

4 A Yes. I mean, so I kind of stick to what I
5 said in the report which I think is essentially, you
6 know, this is a district that could perform more
7 strongly than it does as drawn in terms of allowing
8 minority candidates to elect their candidates of
9 choice. But, yeah, I mean, the numbers are there. It
10 does -- it is true that 65 percent of the time, the
11 minority candidate of choice does win. So to me that's
12 a borderline case.

13 Q Okay. And as you understand -- well, you
14 reference sort of what you say down below that in
15 paragraph 59 where it says "This district could perform
16 more strongly than it does as drawn in terms of
17 allowing minority voters to elect their candidates of
18 choice."

19 As you understand Section 2 of the Voting
20 Rights Act is the fact that the district could perform
21 more strongly than it does as drawn indicative of a
22 need to redraw it in order to comply with the law?

23 MS. BERRY: Objection. Calls for a legal
24 conclusion.

25

1 BY MR. JACOUTOT:

2 Q And just to be clear, Dr. Schneer, I'm only
3 asking it as you understand Section 2 with the
4 knowledge that you're not an attorney.

5 THE WITNESS: Do I go ahead and answer?

6 MS. BERRY: Yes. Unless I instruct you not
7 to.

8 THE WITNESS: Okay. Sorry. So repeat the
9 question, please, one more time.

10 BY MR. JACOUTOT:

11 Q Sure. As you understand Section 2, given
12 your work in this space, is the fact that a district
13 could perform more strongly than it does as drawn, is
14 that indicative to you of a need to redraw it in order
15 to comply with Section 2?

16 MS. BERRY: Same objection.

17 THE WITNESS: So, you know, I think that the
18 answer there is that, you know, when you're redrawing a
19 district, it, by its very nature, means you're cutting
20 into other districts; right? And so, you know, looking
21 at the map -- let me take a look at the map for CD 7.
22 Just a moment.

23 BY MR. JACOUTOT:

24 Q Yeah. And can you tell me what page you're
25 on too?

1 A Yeah. Just one minute. So I'm on page 22.

2 No. Actually, is that -- that is -- yeah. 22.

3 Page 22.

4 CD 7, for example, borders Congressional
5 Districts 9 and 10. If you look down at the
6 performance analysis for 9 and 10 -- so now I'm going
7 back to page 52. In 9 and 10, minority candidates
8 elected their candidate of choice 0 percent of the
9 time. So to the extent that you would be tweaking the
10 lines to go into those districts where white voters did
11 vote as a bloc and you could be in conjunction
12 improving the, quote/unquote, performance of the CD 7,
13 I think that that would, you know, I think it would
14 probably meet this criteria.

15 Q Okay. So you're sort of saying that this is
16 a district that, if you were to redraw the maps, that
17 CD 7 is a district where you could possibly pull
18 minority voters from Districts 9 and 10 and put them
19 into CD 7 and --

20 A I'm not saying that exactly. I'm just saying
21 that, by the nature of redrawing CD 7, you would be
22 changing the boundaries of these other districts where
23 this kind of becomes a moot question because the -- you
24 know, because based on this performance, white voters
25 are voting as a bloc to prevent minorities from --

1 like, I guess what I'm saying is we can sort of split
2 hairs on CD 7, but it borders these districts that --
3 where there's not really a question about this.

4 Q Direct your attention to paragraph 67.

5 A Okay.

6 Q And it's referring to specific Legislative
7 District 117. And it says "Based on historical
8 elections, minority voters are just now beginning to be
9 able to elect minority-preferred candidates."

10 Then it goes on to say "Only in the three
11 2021 runoff elections and the 2022 general elections
12 did minority candidates garner more than half the vote
13 in this district. And in no case was the margin of
14 victory safe for the candidate of choice."

15 So a couple questions. We're kind of, again,
16 flip-flopping between minority-preferred candidates and
17 minority candidates in this paragraph as we are
18 elsewhere. But, again, to your point, you are sort of
19 not ascribing any additional importance or distinction
20 between minority-preferred candidates and minority
21 candidates in racial polarization analysis; right?

22 A I don't think I say that exactly. But I'm
23 happy to proceed so we don't relitigate all of this.

24 Q Yeah. They're consistently sort of
25 interchangeable in the report.

1 A I mean, I guess I disagree there. Like in
2 each -- you know, so I understand how you -- it's
3 certainly true that I mention both of these things in
4 the same paragraph. But I don't actually -- I'm not
5 treating them as interchangeable.

6 What I'm doing is to make these judgments
7 about performance, I'm looking specifically at
8 elections with a minority versus a nonminority
9 candidate. And in those elections, I'm looking at the
10 extent of -- you know, if I'm doing a racially
11 polarized voting analysis, the extent of cohesion, or
12 if I'm looking at the performance, you know, the
13 ability to elect, I'm looking at those -- that subset
14 of races and the minority-preferred candidate in those
15 races, it is true that, in the subset of races I'm
16 looking at, the minority-preferred candidate is the
17 minority candidate. But I think I'm pretty careful
18 with the language depending on what I'm doing to refer
19 to each of those things distinctively.

20 Q So it references there the minority-preferred
21 candidate success in the 2021 runoff elections and 2022
22 general.

23 Given the success of minority candidates in
24 the runoff elections -- excuse me -- minority-preferred
25 candidates in runoff elections of late, does that at

1 all signal to you that runoff elections might actually
2 assist the minority-preferred candidate in winning the
3 contest?

4 A No. I don't have any way of knowing if it,
5 you know -- there's the time trend, right, we're in a
6 different political context and the candidates are
7 different. I just don't -- I wouldn't feel comfortable
8 making a judgment about that, no.

9 Q Okay. And I think you might have been
10 referring to this in one of the responses you had, and
11 I don't want to belabor the point. But just if you
12 could turn to paragraph 82.

13 A Okay.

14 Q In the second sentence, you say "To examine
15 the performance of minority candidates in the
16 illustrative maps, I examine the extent to which
17 minority candidates have earned votes in past elections
18 in the relevant districts."

19 My only question is that you did limit your
20 analysis here to minority candidates -- right? -- not
21 just -- not the broader category of minority-preferred
22 candidates?

23 A Yeah. So in all of the -- in all the
24 analysis where I'm looking at historical elections and
25 seeing if white bloc voting is preventing minority

1 groups from electing their candidates of choice, the
2 past elections I'm looking at are for this definition
3 of minority versus nonminority candidates. So I'm
4 using that criteria as an assumption to -- that that --
5 excuse me. I'm using that criteria to select the
6 elections that I'm assessing that question for.

7 Q And you're using that criteria because those
8 particular elections are the most probative according
9 to some courts?

10 A Yeah. So as we discussed at the start of
11 this discussion, I'm using it. Yeah, exactly. Based
12 on that and that Georgia is a state where there
13 actually are a number of elections where this is
14 actually the case.

15 MR. JACOUTOT: Okay. I think we can go off
16 the record for 5 or 10 minutes if you guys prefer a
17 longer break. I'm just going to check my notes and
18 make sure I've got all my questions that I want to ask.

19 THE VIDEOGRAPHER: The time is 11:19 a.m.
20 We're off the record.

21 (Off the record 11:19 a.m. to 11:25 a.m.)

22 THE VIDEOGRAPHER: The time is 11:25 a.m.
23 We're on the record.

24 MR. JACOUTOT: All right. Dr. Schneer, I
25 don't have any further questions for you. Thank you

1 for your time. And, Ms. Berry, if you've got any
2 cross, feel free.

3 THE WITNESS: Thank you.

4 MR. JACOUTOT: Or direct. Excuse me.

5 MS. BERRY: We do. Can we -- sorry. Can we
6 take about few minutes?

7 MR. JACOUTOT: Sure.

8 THE VIDEOGRAPHER: The time is 11:25 a.m.
9 We're off the record.

10 (Off the record 11:25 a.m. to 11:36 a.m.)

11 THE VIDEOGRAPHER: The time is 11:36 a.m.
12 We're on the record.

13 EXAMINATION

14 BY MR. ROLLINS-BOYD:

15 Q Hi, Dr. Schneer. I just have a few questions
16 that I want to walk through with you based on your
17 testimony today so far. Earlier in your deposition
18 with Mr. Jacoutot, you were describing your assumption
19 that -- you described the assumption you relied upon in
20 your analysis that elections involving minorities and
21 nonminorities were the most probative. Do you recall
22 that discussion?

23 A Yes.

24 MR. JACOUTOT: I'm sorry to interrupt your
25 line of questions Mr. Rollins-Boyd. Quick question. I

1 think you said this at the beginning of the depo, but
2 who are you representing?

3 MR. ROLLINS-BOYD: Marlin David Rollins-Boyd
4 for Lawyers' Committee for Civil Rights. And I
5 represent the Georgia NAACP plaintiff group in this
6 case.

7 MR. JACOUTOT: Okay. Thank you. Sorry about
8 that.

9 BY MR. ROLLINS-BOYD:

10 Q So the question was do you recall your
11 discussion with Mr. Jacoutot regarding your assumption
12 that elections involving minorities and nonminorities
13 were the most probative?

14 A Yes.

15 Q And that was based on your understanding of
16 some -- a case from the ninth circuit?

17 A Yes.

18 Q You're not a lawyer; correct?

19 A I am not.

20 Q And you're not offering an opinion in the
21 case today or in your report that that standard is
22 relevant for our current case here in Georgia?

23 A No. I'm not offering an opinion.

24 Q And I think you testified that the reason --
25 the basis for your assumption was that it provided a

1 stricter standard for evaluating RPV.

2 Do you recall that?

3 A Yes.

4 Q What did you mean by that?

5 A Well, if I'm -- what I mean by that is I'm
6 looking at a subset of a particular type of election.
7 And so, for example, in some states, there are no
8 elections whatsoever between a minority candidate and a
9 nonminority candidate. And if you think that the
10 opinion -- that that, you know, such elections are most
11 probative, then you wouldn't be able to make an
12 assessment using the most probative elections.

13 And Georgia is a state where there are many
14 elections between a minority and a nonminority
15 candidate. And so we have the ability of meeting that
16 standard of being able to look at these elections that
17 this ninth circuit court has said were less probative.

18 Q And under that kind of strict standard, were
19 you able to determine if there was racially polarized
20 voting in the areas you looked at in Georgia?

21 A Yes, I was.

22 Q And I think you mentioned that there was a
23 lesser standard you could have also used? Do you have
24 that in mind?

25 A Yeah. I mean, I could have just -- I could

1 have looked at my analysis -- or I could have looked
2 just across all elections, yes.

3 Q And in looking -- did you look at all general
4 elections statewide in Georgia?

5 A Yes, I did. Yes. The answer is yes.

6 Q And under that analysis, were you able to
7 determine if there was RPV in the areas you looked at
8 in Georgia?

9 A Yes, I was.

10 Q All right. I want to move on a little bit.
11 During your deposition, you discussed briefly or you
12 were describing your performance analysis. I just want
13 to clarify a few points. Can you explain how your
14 performance analysis in your report relates to the
15 third Gingles precondition?

16 A Yes. Specifically the performance analysis
17 in the report is trying to determine if white bloc
18 voting is preventing minority candidates voters from
19 electing their candidates of choice. And to do that, I
20 look at past elections and look at the share of the
21 time that the minority-preferred candidate was elected.
22 I look at the average vote share for the
23 minority-preferred candidate. I look at the number of
24 times where the -- it was sort of a safer win over this
25 55 percent, two-party vote share threshold.

1 Q So to be clear, did you undertake that kind
2 of analysis you just described in your report for each
3 of the districts relevant to the new majority minority
4 districts that Dr. Duchin laid out in her report?

5 A So in reviewing her report, there was one
6 additional district that I noticed that I did not
7 include in my report. That was an oversight on my
8 part. Specifically, Legislative District 144, the
9 enacted Legislative District 144. And so because I had
10 omitted that, I have gone back and looked at what I
11 term the performance of Legislative District 144. And
12 I found that in no past elections were minority voters
13 able to elect their candidate of choice. So
14 essentially running the exact same type of performance
15 analysis that I did for all other districts, this was a
16 district where in no past elections that I examined
17 were minority voters able to elect their candidates of
18 choice.

19 I'm sorry. One more point. And so, you
20 know, based on that performance analysis, the white
21 bloc voting in LD 144 in my judgment prevented minority
22 voters from electing their candidates of choice.

23 MR. ROLLINS-BOYD: Thank you. I have no
24 further questions.

25 MR. JACOUTOT: Sorry, y'all. I thought I was

1 off mute. I wasn't. I thought you guys were ignoring
2 me for a little while. I'm just going to object to
3 that question as outside of the scope of the report. I
4 have no way of validating or, you know, crossing him on
5 the data discussed there because it wasn't discussed in
6 his report. But that's all.

7 THE VIDEOGRAPHER: Any other questions,
8 Counsel?

9 MR. ROLLINS-BOYD: No.

10 THE VIDEOGRAPHER: Okay. This concludes
11 today's deposition. The time is 11:42 a.m. And we're
12 off the video record.

13 MR. JACOUTOT: The only thing I would want is
14 a rush transcript.

15 THE COURT REPORTER: When would you like it?

16 MR. JACOUTOT: By, let's say, next week.
17 Maybe Tuesday next week?

18 THE COURT REPORTER: Tuesday next week. I
19 can work that out.

20 MR. ROLLINS-BOYD: Can we also get a rough,
21 please?

22 (Signature reserved.)

23 (Deposition concluded 11:43 a.m.)

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CERTIFICATE OF REPORTER

STATE OF NORTH CAROLINA)
COUNTY OF MECKLENBURG)

I, MEREDITH R. SCHRAMEK, hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

I further certify that I have no direct contract with any party in this action, and my compensation is based solely on the terms of my subcontractor agreement.

Nothing in the arrangements made for this proceeding impacts my absolute commitment to serve all parties as an impartial officer of the court.

This, the 20th day of March, 2023.



MEREDITH R. SCHRAMEK, RPR, CCR 3040

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GEORGIA STATE CONFERENCE OF THE)
NAACP, et al.)

Plaintiffs,)

v.)

STATE OF GEORGIA, et al.)

Defendants.)

COMMON CAUSE, et al.,)

Plaintiffs,)

v.)

BRAD RAFFENSPERGER)

Defendant.)

Case No. 1:21-CV-5338-
ELB-SCJ-SDG

Case No. 1:22-CV-
00090-ELB-SCJ-SDG

NOTICE OF ERRATA TO DR. MOON DUCHIN JANUARY 13, 2023
EXPERT REPORT

Errata and Clarifications

Moon Duchin
Professor of Mathematics, Tufts University
Senior Fellow, Tisch College of Civic Life

April 26, 2023

I submit the information below to correct typographical errors and offer selected clarifications from my January 13, 2023 Expert Report and related materials. Nothing presented here changes any of my ultimate findings and conclusions. Additionally, valid information in every statistical category was available in the backup materials filed with the January 13 report.

1. At the beginning of the report (page 2), the date should be January 13, 2023 rather than January 13, 2022.
2. Table 8 (page 21) should be amended as follows. It previously mis-reported the compactness statistics for CD Alt, HD Alt Eff 1, and HD Alt Eff 2. Only those three rows are affected. My general finding that CD Alt is more compact than the enacted plan, while HD Alt Eff 1 and HD Alt Eff 2 are comparable in compactness, is unchanged. Additionally, the compactness numbers appearing elsewhere in the report, notably the detailed statistics in Table 11, were correct.

	avg Polsby-Popper (higher is better)	avg Reock (higher is better)	Block cut edges (lower is better)
BenchmarkCD	0.238	0.452	5775
EnactedCD	0.267	0.441	5075
DuncanKennedy	0.295	0.471	4665
CD Alt	0.301	0.473	4665
BenchmarkSD	0.250	0.421	12,549
EnactedSD	0.287	0.418	11,005
SD Alt Eff 1	0.287	0.427	10,897
SD Alt Eff 2	0.296	0.440	10,349
SD Alt Eff 3	0.295	0.431	10,479
BenchmarkHD	0.244	0.382	24,001
EnactedHD	0.278	0.391	22,014
HD Alt Eff 1	0.261	0.391	21,843
HD Alt Eff 2	0.263	0.399	21,907
HD Alt Eff 3	0.279	0.403	20,917

Table 8: Compactness scores for each plan submitted with January 13 Report.

3. Table 9 (page 22) can be clarified as follows. Some splits of a political unit separate the territory but do not separate the population, for instance if an unpopulated block or an unpopulated spur is assigned to a different district from the bulk of the unit.

To reduce this ambiguity, I am providing very slightly modified assignment files for two of my demonstrative plans, namely **CD Alt** and **SD Alt Eff 1**. These differ from the plans provided with the January 13 report only by reassigning a small number of zero-population blocks so that the **county splits and county pieces** count becomes the same whether counting splits of territory or only splits of population.

The changes to these two plans only serve to disambiguate the splits statistics and make no meaningful change to compactness, demographics, effectiveness, or any other element of the analysis.

Finally, I note for the record that three counties in Georgia are actually themselves made up of discontinuous territory by the usual definition of contiguity, which disallows point-connected or corner-connected regions. (In particular, the state's redistricting guidelines state explicitly that "Districts that connect on a single point are not contiguous.") However, there are two counties (Upson and Taylor) that are only point-connected, and a third (Brooks County) that is wholly discontinuous. In each case, the county's failure of contiguity is caused by a single unpopulated block. This is not uncommon around the country. It is standard practice for plans that separate such a block from the rest of the county to not incur an additional split; this allows the districts to remain contiguous by the strictest definition.

4. In §7 of the January 13 Report, images for the cluster-level alternative plans are shown on pages 26-39. In some cases the captions below the images under-report the number of majority-minority districts. For convenience, I will report amended figures for all of those counts here in one place.

- SD Atlanta: **Enacted** 7/8/8; **Alt 1** 10/10/10; **Alt 2** 8/9/9
- SD Gwinnett: **Enacted** 3/4/4; **Alt 1** 5/7/6
- SD East Black Belt: **Enacted** 2/2/2; **Alt 1** 3/3/3; **Alt 2** 2/3/3
- HD Atlanta: **Enacted** 18/18/18; **Alt 1** 20/20/20; **Alt 2** 19/20/20
- HD Southwest: **Enacted** 6/6/6; **Alt 1** 8/8/8
- HD East Black Belt: **Enacted** 7/7/7; **Alt 1** 8/9/9; **Alt 2** 8/8/8
- HD Southeast: **Enacted** 1/4/4; **Alt 1** 0/4/4; **Alt 2** 0/5/5

5. In Appendix B, three of the tables mistakenly presented information for the state's Enacted plans labeled as though it was for the alternative plans (SD Alt Eff 2, Table 52, page 94; HD Alt Eff 1, Table 53, pages 95-97; and HD Alt Eff 2, Table 54, pages 98-100). The amended tables follow below.

These amended tables are consistent with the summary statistics in Table 10 (page 23) on the number of effective districts. SD Alt Eff 2 has +4 effective districts relative to SD Enacted. HD Alt Eff 1 has +9 effective and HD Alt Eff 2 has +11 effective districts relative to HD Enacted.

SD	SD Enacted				SD	SD Alt Eff 2			
	BVAP	BHVAP	Primaries out of 4	Generals out of 8		BVAP	BHVAP	Primaries out of 4	Generals out of 8
1	25.1%	32.6%	3	0	1	25.1%	32.6%	3	0
2	46.9%	54.4%	4	8	2	46.9%	54.4%	4	8
3	21.2%	27.4%	3	0	3	21.2%	27.4%	3	0
4	23.4%	28.9%	3	0	4	23.4%	28.9%	3	0
5	29.9%	71.6%	3	8	5	24.1%	59.8%	3	8
6	23.9%	32.1%	0	8	6	28.0%	42.9%	3	8
7	21.4%	38.0%	3	8	7	25.4%	47.3%	3	8
8	30.4%	36.6%	4	0	8	30.4%	36.6%	4	0
9	29.5%	48.3%	3	8	9	37.6%	54.3%	4	8
10	71.5%	76.7%	4	8	10	59.7%	69.5%	4	8
11	31.0%	38.6%	4	0	11	31.0%	38.6%	4	0
12	58.0%	61.5%	4	8	12	58.0%	61.5%	4	8
13	27.0%	33.0%	4	0	13	27.0%	33.0%	4	0
14	19.0%	31.1%	0	8	14	18.1%	27.1%	0	7
15	54.0%	60.6%	4	8	15	54.0%	60.6%	4	8
16	22.7%	27.7%	3	0	16	48.4%	54.5%	4	8
17	32.0%	37.1%	3	0	17	46.4%	52.1%	4	7
18	30.4%	34.9%	3	0	18	30.4%	34.9%	3	0
19	25.7%	34.1%	4	0	19	25.7%	34.1%	4	0
20	31.3%	34.8%	3	0	20	32.5%	37.4%	3	0
21	7.5%	16.3%	2	0	21	7.5%	16.3%	2	0
22	56.5%	61.8%	4	8	22	50.4%	53.9%	4	8
23	35.5%	40.0%	3	0	23	47.4%	51.5%	3	8
24	19.9%	24.3%	3	0	24	23.1%	28.7%	3	0
25	33.5%	37.2%	3	0	25	28.2%	32.7%	3	0
26	57.0%	61.2%	3	8	26	51.2%	54.3%	3	8
27	5.0%	15.2%	0	0	27	5.0%	15.2%	0	0
28	19.5%	25.9%	2	0	28	15.8%	21.9%	2	0
29	26.9%	31.4%	3	0	29	26.9%	31.4%	3	0
30	20.9%	27.0%	2	0	30	15.7%	22.3%	1	0
31	20.7%	28.1%	3	0	31	25.9%	32.6%	3	0
32	14.9%	25.4%	3	0	32	14.9%	25.4%	3	0
33	43.0%	65.9%	4	8	33	50.6%	68.8%	4	8
34	69.5%	82.2%	4	8	34	54.4%	66.3%	4	8
35	71.9%	79.4%	4	8	35	60.9%	68.4%	4	8
36	51.3%	58.4%	3	8	36	54.0%	60.8%	3	8
37	19.3%	28.0%	3	0	37	19.3%	28.0%	3	0
38	65.3%	73.7%	4	8	38	51.0%	56.6%	3	8
39	60.7%	66.3%	3	8	39	86.5%	92.0%	4	8
40	19.2%	40.8%	0	8	40	19.0%	45.8%	0	8
41	62.6%	69.3%	3	8	41	63.6%	70.8%	3	8
42	30.8%	39.4%	0	8	42	17.0%	27.7%	0	8
43	64.3%	71.2%	4	8	43	55.6%	61.9%	4	8
44	71.3%	79.9%	4	8	44	76.3%	79.5%	3	8
45	18.6%	31.7%	3	0	45	15.1%	27.8%	3	0
46	16.9%	23.9%	1	0	46	14.7%	21.5%	1	0
47	17.4%	27.0%	3	0	47	18.4%	27.5%	2	7
48	9.5%	16.5%	1	0	48	10.5%	19.7%	1	3
49	8.0%	29.9%	1	0	49	7.5%	31.0%	1	0
50	5.6%	14.4%	1	0	50	6.5%	12.7%	2	0
51	1.2%	5.5%	0	0	51	1.2%	5.5%	0	0
52	13.0%	21.2%	1	0	52	13.0%	21.2%	1	0
53	5.1%	8.3%	1	0	53	5.1%	8.3%	1	0
54	3.8%	26.4%	1	0	54	3.8%	26.4%	1	0
55	66.0%	74.7%	4	8	55	57.0%	66.0%	4	8
56	7.6%	15.3%	0	0	56	7.6%	15.3%	0	0

Table 52: Demographics and effectiveness for SD Alt Eff 2, shown side-by-side with SD Enacted for convenience.

HD	HD Enacted				HD	HD Alt Eff 1 Part 1			
	BVAP	BHVAP	Primaries out of 4	Generals out of 8		BVAP	BHVAP	Primaries out of 4	Generals out of 8
1	4.2%	6.3%	1	0	1	4.2%	6.3%	1	0
2	3.2%	10.8%	1	0	2	3.2%	10.8%	1	0
3	3.4%	6.4%	1	0	3	3.4%	6.4%	1	0
4	5.4%	49.5%	2	0	4	5.4%	49.5%	2	0
5	4.6%	17.2%	1	0	5	4.6%	17.2%	1	0
6	1.5%	13.5%	1	0	6	1.5%	13.5%	1	0
7	0.6%	6.1%	0	0	7	0.6%	6.1%	0	0
8	1.4%	4.1%	0	0	8	1.4%	4.1%	0	0
9	1.6%	6.3%	0	0	9	1.6%	6.3%	0	0
10	3.7%	13.7%	1	0	10	3.7%	13.7%	1	0
11	1.8%	6.0%	0	0	11	1.8%	6.0%	0	0
12	9.7%	15.9%	1	0	12	9.7%	15.9%	1	0
13	19.2%	30.0%	1	0	13	19.2%	30.0%	1	0
14	6.8%	12.7%	2	0	14	6.8%	12.7%	2	0
15	14.2%	23.9%	2	0	15	14.2%	23.9%	2	0
16	11.7%	20.3%	3	0	16	11.7%	20.3%	3	0
17	23.0%	29.9%	2	0	17	23.0%	29.9%	2	0
18	8.0%	10.4%	2	0	18	8.0%	10.4%	2	0
19	24.1%	30.9%	3	0	19	24.1%	30.9%	3	0
20	9.3%	18.5%	1	0	20	7.6%	14.7%	1	0
21	5.1%	12.5%	1	0	21	5.1%	12.6%	1	0
22	15.1%	26.7%	3	0	22	23.9%	35.3%	3	5
23	6.5%	20.7%	1	0	23	6.5%	20.7%	1	0
24	7.0%	17.3%	1	0	24	5.2%	13.1%	1	0
25	5.9%	11.0%	0	0	25	7.0%	11.8%	0	0
26	4.0%	14.8%	0	0	26	4.7%	14.3%	0	0
27	3.7%	13.3%	1	0	27	3.7%	13.3%	1	0
28	3.9%	15.3%	0	0	28	3.9%	15.3%	0	0
29	13.6%	53.3%	2	0	29	13.3%	55.2%	2	0
30	8.1%	24.2%	0	0	30	7.1%	22.2%	1	0
31	7.6%	26.5%	1	0	31	7.6%	26.5%	1	0
32	8.0%	12.9%	2	0	32	8.0%	12.9%	2	0
33	11.2%	14.3%	3	0	33	18.7%	22.5%	3	0
34	15.7%	23.5%	3	0	34	13.0%	19.9%	3	0
35	28.4%	39.6%	3	8	35	22.5%	32.7%	3	5
36	17.0%	23.5%	3	0	36	16.0%	27.0%	3	5
37	28.2%	46.8%	3	8	37	30.0%	53.6%	3	8
38	54.2%	66.8%	4	8	38	43.7%	52.9%	4	8
39	55.3%	74.0%	4	8	39	45.5%	62.6%	4	8
40	33.0%	38.9%	3	8	40	42.9%	51.7%	3	8
41	39.4%	68.0%	4	8	41	39.2%	53.4%	3	8
42	33.7%	51.1%	3	8	42	33.9%	55.9%	3	8
43	26.5%	40.6%	3	8	43	35.7%	52.1%	3	8
44	12.0%	22.5%	2	0	44	13.4%	28.1%	2	0
45	5.3%	10.2%	0	0	45	7.4%	13.0%	0	0
46	8.1%	15.5%	0	0	46	7.2%	14.3%	0	0
47	10.7%	18.1%	2	0	47	13.3%	23.5%	3	5
48	11.8%	24.2%	0	1	48	11.1%	18.2%	0	1
49	8.4%	15.1%	0	0	49	6.4%	11.6%	0	0
50	12.4%	18.8%	2	8	50	12.5%	19.7%	2	7
51	23.7%	37.0%	0	8	51	25.1%	44.2%	3	8
52	16.0%	23.4%	0	8	52	13.0%	20.0%	0	7
53	14.5%	21.9%	0	1	53	15.7%	26.9%	0	6
54	15.5%	28.3%	0	7	54	14.7%	23.5%	0	4
55	55.4%	60.4%	3	8	55	51.3%	56.7%	3	8
56	45.5%	51.3%	3	8	56	45.8%	51.3%	3	8
57	18.1%	26.1%	0	8	57	17.9%	25.9%	0	8
58	63.0%	68.1%	3	8	58	52.3%	58.2%	2	8
59	70.1%	74.5%	3	8	59	91.8%	94.5%	4	8
60	63.9%	69.0%	3	8	60	59.3%	65.4%	3	8

HD	HD Enacted				HD	HD Alt Eff 1 Part 2			
	BVAP	BHVAP	Primaries out of 4	Generals out of 8		BVAP	BHVAP	Primaries out of 4	Generals out of 8
61	74.3%	81.9%	4	8	61	50.1%	60.1%	4	8
62	72.3%	79.1%	3	8	62	81.7%	89.0%	3	8
63	69.3%	78.6%	3	8	63	57.5%	66.5%	3	8
64	30.7%	38.1%	3	0	64	50.9%	57.4%	4	8
65	62.0%	66.5%	4	8	65	81.7%	86.4%	4	8
66	53.4%	62.9%	4	8	66	51.0%	60.0%	4	8
67	58.9%	66.7%	4	8	67	89.9%	95.3%	4	8
68	55.7%	62.0%	4	8	68	13.7%	20.3%	3	0
69	63.6%	69.0%	4	8	69	51.9%	60.7%	4	8
70	27.8%	35.8%	3	0	70	27.8%	35.8%	3	0
71	19.9%	26.1%	3	0	71	19.9%	26.1%	3	0
72	20.9%	27.8%	1	0	72	20.9%	27.8%	1	0
73	12.1%	19.1%	2	0	73	11.8%	18.2%	2	0
74	25.5%	31.1%	3	0	74	50.8%	57.7%	4	8
75	74.4%	85.7%	4	8	75	54.2%	61.9%	4	8
76	67.2%	80.4%	4	8	76	61.6%	81.6%	4	8
77	76.1%	88.3%	4	8	77	89.6%	94.6%	4	8
78	71.6%	80.5%	4	8	78	64.2%	75.5%	4	8
79	71.6%	87.6%	4	8	79	73.3%	87.9%	4	8
80	14.2%	37.3%	0	8	80	23.6%	61.7%	0	8
81	21.8%	42.7%	0	8	81	22.6%	52.5%	0	8
82	16.8%	23.6%	0	8	82	11.3%	17.4%	0	8
83	15.1%	43.6%	0	8	83	14.4%	23.1%	0	8
84	73.7%	76.7%	3	8	84	78.1%	81.0%	3	8
85	62.7%	68.6%	3	8	85	52.6%	59.1%	3	8
86	75.1%	79.4%	3	8	86	92.0%	95.4%	4	8
87	73.1%	79.8%	4	8	87	57.5%	64.2%	3	8
88	63.3%	73.3%	3	8	88	62.2%	69.2%	3	8
89	62.5%	65.9%	2	8	89	66.4%	69.6%	3	8
90	58.5%	62.8%	2	8	90	58.5%	62.8%	2	8
91	70.0%	75.9%	4	8	91	50.3%	55.5%	4	8
92	68.8%	73.5%	4	8	92	87.6%	91.1%	4	8
93	65.4%	75.0%	4	8	93	62.1%	72.5%	4	8
94	69.0%	76.3%	4	8	94	81.5%	86.1%	4	8
95	67.2%	75.1%	4	8	95	47.1%	57.7%	4	8
96	23.0%	59.0%	3	8	96	26.0%	53.3%	3	8
97	26.8%	46.0%	3	8	97	23.9%	59.8%	3	8
98	23.2%	76.0%	3	8	98	23.4%	70.1%	3	8
99	14.7%	23.4%	3	3	99	16.4%	25.1%	3	5
100	10.0%	20.0%	1	0	100	9.8%	20.9%	3	0
101	24.2%	42.4%	3	7	101	21.3%	38.3%	3	6
102	37.6%	58.9%	3	8	102	39.5%	56.1%	4	8
103	16.8%	33.7%	3	0	103	15.7%	30.6%	3	0
104	17.0%	28.1%	3	0	104	16.1%	27.3%	3	0
105	29.0%	45.8%	3	6	105	34.5%	53.9%	3	8
106	36.3%	47.4%	3	7	106	26.7%	58.7%	3	8
107	29.6%	60.7%	3	8	107	30.3%	55.6%	3	8
108	18.4%	36.6%	3	6	108	37.4%	54.7%	3	8
109	32.5%	68.6%	3	8	109	29.1%	57.3%	3	8
110	47.2%	57.7%	4	8	110	42.9%	53.7%	4	8
111	22.3%	31.1%	3	0	111	24.5%	31.8%	3	0
112	19.2%	22.5%	1	0	112	19.2%	22.5%	1	0
113	59.5%	66.2%	4	8	113	51.0%	56.1%	4	8
114	24.7%	28.4%	3	0	114	32.8%	37.2%	3	0
115	52.1%	59.1%	4	8	115	50.2%	56.2%	4	7
116	58.1%	65.4%	4	8	116	54.8%	62.8%	4	8
117	36.6%	42.0%	3	0	117	51.0%	58.2%	4	8
118	23.6%	27.3%	3	0	118	23.2%	26.3%	3	0
119	13.5%	23.9%	2	0	119	13.5%	23.9%	2	0
120	14.3%	21.4%	2	0	120	14.3%	21.4%	2	0

HD	HD Enacted				HD	HD Alt Eff 1 Part 3			
	BVAP	BHVAP	Primaries out of 4	Generals out of 8		BVAP	BHVAP	Primaries out of 4	Generals out of 8
121	9.6%	15.2%	0	0	121	9.6%	15.2%	0	0
122	28.4%	40.1%	3	8	122	28.4%	40.1%	3	8
123	24.3%	28.6%	3	0	123	13.3%	19.1%	3	0
124	25.6%	31.8%	2	0	124	28.4%	33.1%	2	0
125	23.7%	31.4%	3	0	125	24.1%	32.1%	3	0
126	54.5%	57.7%	4	8	126	52.5%	56.0%	4	8
127	18.5%	23.3%	3	0	127	14.6%	19.5%	3	0
128	50.4%	52.1%	2	4	128	50.1%	51.7%	2	6
129	54.9%	59.2%	3	8	129	51.9%	55.4%	3	8
130	59.9%	63.8%	4	8	130	54.4%	58.7%	3	8
131	17.6%	23.5%	3	0	131	27.1%	32.2%	3	0
132	52.3%	60.1%	4	8	132	53.6%	61.8%	4	8
133	36.8%	38.9%	3	0	133	48.7%	50.7%	3	8
134	33.6%	37.3%	1	0	134	33.6%	37.3%	1	0
135	23.8%	25.6%	1	0	135	23.8%	25.6%	1	0
136	28.7%	32.3%	3	0	136	28.7%	32.3%	3	0
137	52.1%	56.6%	4	8	137	51.7%	55.4%	4	8
138	19.3%	22.6%	2	0	138	19.3%	22.6%	2	0
139	20.3%	26.7%	2	0	139	20.3%	26.7%	2	0
140	57.6%	65.6%	4	8	140	57.1%	65.0%	4	8
141	57.5%	64.1%	4	8	141	53.6%	60.3%	4	8
142	59.5%	63.2%	3	8	142	50.8%	54.5%	3	8
143	60.8%	65.5%	3	8	143	52.4%	58.7%	3	8
144	29.3%	31.9%	3	0	144	50.4%	54.7%	3	8
145	35.7%	41.6%	3	0	145	23.1%	25.9%	3	0
146	27.6%	32.3%	4	0	146	23.3%	28.2%	4	0
147	30.1%	37.3%	4	0	147	31.8%	39.0%	3	0
148	34.0%	37.1%	4	0	148	38.6%	42.0%	4	0
149	32.1%	37.8%	2	0	149	32.1%	37.8%	2	0
150	53.6%	59.7%	4	8	150	51.2%	56.5%	4	4
151	42.4%	49.7%	4	0	151	51.0%	58.5%	4	8
152	26.1%	28.4%	4	0	152	34.2%	37.4%	4	0
153	67.9%	70.4%	4	8	153	52.9%	55.6%	4	7
154	54.8%	56.5%	4	7	154	50.1%	52.2%	4	5
155	35.9%	38.1%	3	0	155	35.9%	38.1%	3	0
156	30.3%	37.2%	4	0	156	30.3%	37.2%	4	0
157	24.7%	33.7%	3	0	157	24.7%	33.7%	3	0
158	31.2%	35.7%	2	0	158	31.2%	35.7%	2	0
159	24.5%	27.4%	2	0	159	22.2%	25.9%	3	0
160	22.6%	27.6%	2	0	160	26.6%	31.7%	1	0
161	27.1%	33.9%	4	0	161	42.1%	50.9%	4	8
162	43.7%	53.3%	4	8	162	39.9%	50.4%	4	8
163	45.5%	52.9%	3	8	163	44.0%	50.9%	4	8
164	23.5%	32.0%	3	0	164	12.9%	18.0%	3	0
165	50.3%	55.6%	4	8	165	47.3%	52.0%	4	8
166	5.7%	9.8%	3	0	166	7.2%	11.9%	3	0
167	22.3%	29.7%	3	0	167	20.0%	26.2%	3	0
168	46.3%	56.6%	4	8	168	45.9%	56.6%	4	8
169	29.0%	36.7%	3	0	169	24.0%	33.0%	3	0
170	24.2%	32.9%	3	0	170	26.8%	39.3%	3	0
171	39.6%	44.2%	4	0	171	51.0%	55.0%	4	6
172	23.3%	36.7%	4	0	172	25.1%	34.5%	3	0
173	36.3%	41.7%	4	0	173	35.4%	41.0%	4	0
174	17.4%	25.4%	3	0	174	17.4%	25.4%	3	0
175	24.2%	29.2%	4	0	175	21.0%	26.7%	4	0
176	22.7%	30.9%	4	0	176	23.8%	30.0%	4	0
177	53.9%	60.0%	4	7	177	53.9%	60.0%	4	7
178	14.8%	19.9%	3	0	178	14.8%	19.9%	3	0
179	27.0%	33.4%	3	0	179	32.0%	39.5%	4	0
180	18.2%	23.8%	3	0	180	17.0%	22.4%	3	0

Table 53: Demographics and effectiveness for HD Alt Eff 1, shown side-by-side with HD Enacted for convenience.

HD	HD Enacted				HD	HD Alt Eff 2 Part 1			
	BVAP	BHVAP	Primaries out of 4	Generals out of 8		BVAP	BHVAP	Primaries out of 4	Generals out of 8
1	4.2%	6.3%	1	0	1	4.2%	6.3%	1	0
2	3.2%	10.8%	1	0	2	3.2%	10.8%	1	0
3	3.4%	6.4%	1	0	3	3.4%	6.4%	1	0
4	5.4%	49.5%	2	0	4	5.4%	49.5%	2	0
5	4.6%	17.2%	1	0	5	4.6%	17.2%	1	0
6	1.5%	13.5%	1	0	6	1.5%	13.5%	1	0
7	0.6%	6.1%	0	0	7	0.6%	6.1%	0	0
8	1.4%	4.1%	0	0	8	1.4%	4.1%	0	0
9	1.6%	6.3%	0	0	9	1.6%	6.3%	0	0
10	3.7%	13.7%	1	0	10	3.7%	13.7%	1	0
11	1.8%	6.0%	0	0	11	1.8%	6.0%	0	0
12	9.7%	15.9%	1	0	12	9.7%	15.9%	1	0
13	19.2%	30.0%	1	0	13	19.2%	30.0%	1	0
14	6.8%	12.7%	2	0	14	6.8%	12.7%	2	0
15	14.2%	23.9%	2	0	15	14.2%	23.9%	2	0
16	11.7%	20.3%	3	0	16	11.7%	20.3%	3	0
17	23.0%	29.9%	2	0	17	23.0%	29.9%	2	0
18	8.0%	10.4%	2	0	18	8.0%	10.4%	2	0
19	24.1%	30.9%	3	0	19	24.1%	30.9%	3	0
20	9.3%	18.5%	1	0	20	6.8%	15.6%	1	0
21	5.1%	12.5%	1	0	21	5.1%	12.6%	1	0
22	15.1%	26.7%	3	0	22	23.9%	36.9%	3	5
23	6.5%	20.7%	1	0	23	6.5%	20.7%	1	0
24	7.0%	17.3%	1	0	24	6.4%	15.0%	1	0
25	5.9%	11.0%	0	0	25	6.2%	10.8%	0	0
26	4.0%	14.8%	0	0	26	4.7%	14.3%	0	0
27	3.7%	13.3%	1	0	27	3.7%	13.3%	1	0
28	3.9%	15.3%	0	0	28	3.9%	15.3%	0	0
29	13.6%	53.3%	2	0	29	13.6%	53.3%	2	0
30	8.1%	24.2%	0	0	30	6.6%	22.7%	0	0
31	7.6%	26.5%	1	0	31	7.6%	26.5%	1	0
32	8.0%	12.9%	2	0	32	8.0%	12.9%	2	0
33	11.2%	14.3%	3	0	33	18.3%	21.8%	3	0
34	15.7%	23.5%	3	0	34	11.5%	17.0%	3	0
35	28.4%	39.6%	3	8	35	24.2%	35.0%	3	5
36	17.0%	23.5%	3	0	36	11.4%	23.8%	1	0
37	28.2%	46.8%	3	8	37	32.6%	56.9%	3	8
38	54.2%	66.8%	4	8	38	44.0%	54.5%	4	8
39	55.3%	74.0%	4	8	39	46.1%	61.6%	3	8
40	33.0%	38.9%	3	8	40	42.0%	52.2%	3	8
41	39.4%	68.0%	4	8	41	41.0%	53.4%	3	8
42	33.7%	51.1%	3	8	42	32.9%	55.4%	3	8
43	26.5%	40.6%	3	8	43	33.1%	52.9%	3	8
44	12.0%	22.5%	2	0	44	17.8%	25.7%	3	5
45	5.3%	10.2%	0	0	45	5.7%	10.8%	0	0
46	8.1%	15.5%	0	0	46	8.0%	14.3%	0	0
47	10.7%	18.1%	2	0	47	13.5%	23.5%	3	5
48	11.8%	24.2%	0	1	48	12.2%	19.3%	0	1
49	8.4%	15.1%	0	0	49	6.4%	11.6%	0	0
50	12.4%	18.8%	2	8	50	11.7%	18.9%	2	7
51	23.7%	37.0%	0	8	51	23.3%	41.5%	3	8
52	16.0%	23.4%	0	8	52	14.2%	21.2%	0	7
53	14.5%	21.9%	0	1	53	16.3%	28.4%	0	6
54	15.5%	28.3%	0	7	54	13.5%	21.1%	0	4
55	55.4%	60.4%	3	8	55	94.2%	96.6%	4	8
56	45.5%	51.3%	3	8	56	45.4%	51.1%	2	8
57	18.1%	26.1%	0	8	57	18.6%	26.8%	0	8
58	63.0%	68.1%	3	8	58	47.0%	53.5%	3	8
59	70.1%	74.5%	3	8	59	60.8%	65.5%	3	8
60	63.9%	69.0%	3	8	60	50.1%	56.6%	3	8

HD Enacted					HD Alt Eff 2 Part 2				
HD	BVAP	BHVAP	Primaries out of 4	Generals out of 8	HD	BVAP	BHVAP	Primaries out of 4	Generals out of 8
61	74.3%	81.9%	4	8	61	47.4%	57.5%	4	8
62	72.3%	79.1%	3	8	62	80.7%	88.5%	4	8
63	69.3%	78.6%	3	8	63	63.5%	72.0%	3	8
64	30.7%	38.1%	3	0	64	50.5%	57.3%	4	8
65	62.0%	66.5%	4	8	65	67.6%	71.7%	4	8
66	53.4%	62.9%	4	8	66	51.2%	60.3%	4	8
67	58.9%	66.7%	4	8	67	90.4%	95.7%	4	8
68	55.7%	62.0%	4	8	68	58.2%	65.0%	4	8
69	63.6%	69.0%	4	8	69	54.6%	60.9%	4	8
70	27.8%	35.8%	3	0	70	27.8%	35.8%	3	0
71	19.9%	26.1%	3	0	71	19.9%	26.1%	3	0
72	20.9%	27.8%	1	0	72	20.9%	27.8%	1	0
73	12.1%	19.1%	2	0	73	11.9%	18.9%	2	0
74	25.5%	31.1%	3	0	74	12.8%	18.5%	2	0
75	74.4%	85.7%	4	8	75	61.4%	73.4%	3	8
76	67.2%	80.4%	4	8	76	70.4%	83.6%	4	8
77	76.1%	88.3%	4	8	77	77.0%	89.6%	4	8
78	71.6%	80.5%	4	8	78	68.6%	77.0%	4	8
79	71.6%	87.6%	4	8	79	73.1%	88.6%	4	8
80	14.2%	37.3%	0	8	80	25.4%	59.8%	0	8
81	21.8%	42.7%	0	8	81	17.9%	51.9%	0	8
82	16.8%	23.6%	0	8	82	13.0%	18.8%	0	8
83	15.1%	43.6%	0	8	83	16.0%	26.0%	0	8
84	73.7%	76.7%	3	8	84	76.1%	79.2%	3	8
85	62.7%	68.6%	3	8	85	66.7%	72.3%	3	8
86	75.1%	79.4%	3	8	86	59.9%	65.5%	3	8
87	73.1%	79.8%	4	8	87	90.3%	94.1%	4	8
88	63.3%	73.3%	3	8	88	52.0%	60.6%	3	8
89	62.5%	65.9%	2	8	89	65.3%	68.5%	3	8
90	58.5%	62.8%	2	8	90	58.5%	62.8%	2	8
91	70.0%	75.9%	4	8	91	53.0%	58.2%	4	8
92	68.8%	73.5%	4	8	92	69.6%	76.5%	4	8
93	65.4%	75.0%	4	8	93	85.5%	92.7%	4	8
94	69.0%	76.3%	4	8	94	81.3%	85.9%	4	8
95	67.2%	75.1%	4	8	95	49.1%	59.2%	4	8
96	23.0%	59.0%	3	8	96	23.2%	55.1%	3	8
97	26.8%	46.0%	3	8	97	25.6%	54.7%	3	8
98	23.2%	76.0%	3	8	98	23.4%	70.1%	3	8
99	14.7%	23.4%	3	3	99	16.8%	26.9%	3	5
100	10.0%	20.0%	1	0	100	14.1%	28.6%	3	0
101	24.2%	42.4%	3	7	101	33.8%	56.0%	3	8
102	37.6%	58.9%	3	8	102	39.5%	54.2%	4	7
103	16.8%	33.7%	3	0	103	12.2%	25.0%	3	0
104	17.0%	28.1%	3	0	104	19.7%	30.9%	3	0
105	29.0%	45.8%	3	6	105	26.1%	43.2%	3	6
106	36.3%	47.4%	3	7	106	41.3%	52.9%	3	8
107	29.6%	60.7%	3	8	107	30.0%	55.6%	3	8
108	18.4%	36.6%	3	6	108	26.0%	57.5%	3	8
109	32.5%	68.6%	3	8	109	26.0%	56.2%	3	8
110	47.2%	57.7%	4	8	110	42.4%	53.0%	4	7
111	22.3%	31.1%	3	0	111	14.5%	23.3%	3	0
112	19.2%	22.5%	1	0	112	19.2%	22.5%	1	0
113	59.5%	66.2%	4	8	113	53.9%	59.5%	4	8
114	24.7%	28.4%	3	0	114	24.9%	28.7%	3	0
115	52.1%	59.1%	4	8	115	50.3%	57.2%	4	7
116	58.1%	65.4%	4	8	116	53.2%	61.1%	4	8
117	36.6%	42.0%	3	0	117	50.1%	56.6%	4	7
118	23.6%	27.3%	3	0	118	27.0%	31.1%	3	0
119	13.5%	23.9%	2	0	119	13.5%	23.9%	2	0
120	14.3%	21.4%	2	0	120	14.3%	21.4%	2	0

HD	HD Enacted				HD	HD Alt Eff 2 Part 3			
	BVAP	BHVAP	Primaries out of 4	Generals out of 8		BVAP	BHVAP	Primaries out of 4	Generals out of 8
121	9.6%	15.2%	0	0	121	9.6%	15.2%	0	0
122	28.4%	40.1%	3	8	122	28.4%	40.1%	3	8
123	24.3%	28.6%	3	0	123	13.7%	19.7%	3	0
124	25.6%	31.8%	2	0	124	25.5%	29.3%	2	0
125	23.7%	31.4%	3	0	125	30.2%	36.3%	3	0
126	54.5%	57.7%	4	8	126	50.7%	54.9%	4	8
127	18.5%	23.3%	3	0	127	17.6%	23.8%	3	0
128	50.4%	52.1%	2	4	128	50.2%	51.7%	2	6
129	54.9%	59.2%	3	8	129	50.4%	54.0%	3	8
130	59.9%	63.8%	4	8	130	57.1%	61.8%	4	8
131	17.6%	23.5%	3	0	131	17.6%	23.3%	3	0
132	52.3%	60.1%	4	8	132	54.4%	61.5%	4	8
133	36.8%	38.9%	3	0	133	46.6%	48.7%	3	8
134	33.6%	37.3%	1	0	134	33.6%	37.3%	1	0
135	23.8%	25.6%	1	0	135	23.8%	25.6%	1	0
136	28.7%	32.3%	3	0	136	28.7%	32.3%	3	0
137	52.1%	56.6%	4	8	137	48.0%	51.9%	4	8
138	19.3%	22.6%	2	0	138	19.3%	22.6%	2	0
139	20.3%	26.7%	2	0	139	20.3%	26.7%	2	0
140	57.6%	65.6%	4	8	140	65.1%	71.6%	4	8
141	57.5%	64.1%	4	8	141	49.3%	56.2%	4	8
142	59.5%	63.2%	3	8	142	50.1%	53.9%	3	8
143	60.8%	65.5%	3	8	143	52.9%	59.2%	3	8
144	29.3%	31.9%	3	0	144	51.0%	55.2%	3	8
145	35.7%	41.6%	3	0	145	23.1%	25.9%	3	0
146	27.6%	32.3%	4	0	146	24.4%	29.8%	4	0
147	30.1%	37.3%	4	0	147	30.9%	37.7%	4	0
148	34.0%	37.1%	4	0	148	40.8%	44.2%	4	0
149	32.1%	37.8%	2	0	149	32.1%	37.8%	2	0
150	53.6%	59.7%	4	8	150	52.1%	57.2%	4	7
151	42.4%	49.7%	4	0	151	45.1%	53.1%	4	7
152	26.1%	28.4%	4	0	152	33.1%	36.4%	4	0
153	67.9%	70.4%	4	8	153	61.4%	64.2%	4	8
154	54.8%	56.5%	4	7	154	62.0%	64.4%	4	8
155	35.9%	38.1%	3	0	155	35.9%	38.1%	3	0
156	30.3%	37.2%	4	0	156	30.3%	37.2%	4	0
157	24.7%	33.7%	3	0	157	24.7%	33.7%	3	0
158	31.2%	35.7%	2	0	158	31.2%	35.7%	2	0
159	24.5%	27.4%	2	0	159	22.0%	25.6%	3	0
160	22.6%	27.6%	2	0	160	26.3%	31.4%	1	0
161	27.1%	33.9%	4	0	161	41.6%	51.6%	4	8
162	43.7%	53.3%	4	8	162	43.0%	51.5%	4	8
163	45.5%	52.9%	3	8	163	42.7%	50.4%	4	8
164	23.5%	32.0%	3	0	164	13.4%	18.9%	3	0
165	50.3%	55.6%	4	8	165	45.5%	50.5%	4	8
166	5.7%	9.8%	3	0	166	7.2%	11.3%	3	0
167	22.3%	29.7%	3	0	167	36.5%	43.9%	4	4
168	46.3%	56.6%	4	8	168	40.9%	51.7%	4	7
169	29.0%	36.7%	3	0	169	28.7%	35.7%	3	0
170	24.2%	32.9%	3	0	170	28.1%	35.4%	3	0
171	39.6%	44.2%	4	0	171	33.4%	40.3%	3	0
172	23.3%	36.7%	4	0	172	27.4%	39.2%	4	0
173	36.3%	41.7%	4	0	173	29.5%	34.7%	4	0
174	17.4%	25.4%	3	0	174	17.4%	25.4%	3	0
175	24.2%	29.2%	4	0	175	18.0%	22.7%	4	0
176	22.7%	30.9%	4	0	176	23.0%	32.4%	4	0
177	53.9%	60.0%	4	7	177	53.9%	60.0%	4	7
178	14.8%	19.9%	3	0	178	14.8%	19.9%	3	0
179	27.0%	33.4%	3	0	179	18.7%	24.7%	3	0
180	18.2%	23.8%	3	0	180	18.6%	24.3%	3	0

Table 54: Demographics and effectiveness for HD Alt Eff 2, shown side-by-side with HD Enacted for convenience.

Executed this 26th day of April 2023 in Chicago, Illinois.

A handwritten signature in black ink, appearing to read "M. Duchin", written in a cursive style.

Dr. Moon Duchin

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GEORGIA STATE CONFERENCE OF)	
THE NAACP, et al.,)	
)	
Plaintiffs,	)	CASE NO. 1:21-CV-5338-
	)	ELB-SCJ-SDG
v.)	
)	
STATE OF GEORGIA, et al.,)	
)	
Defendants)	
_____)	
)	
COMMON CAUSE, et al.,)	
)	
Plaintiffs,	)	CASE NO. 1:22-CV-00090-
	)	ELB-SCJ-SDG
v.)	
)	
BRAD RAFFENSPERGER,)	
)	
Defendant.)	

EXPERT REPORT OF JOHN B. MORGAN

Pursuant to 28 U.S.C. § 1746, Fed. R. Civ. P. 26, and F.R.E. 702 and 703, I, JOHN B. MORGAN, make the following declaration:

1. My name is John B. Morgan. I am over the age of 21 years, and I am under no legal disability which would prevent me from giving this declaration. If called to testify, I would testify under oath to these facts.

2. I hold a B.A. in History from the University of Chicago. As detailed in my CV, attached as Exhibit 1, I have extensive experience over many years in the field of redistricting. I have worked on redistricting plans in the redistricting efforts following the 1990 Census, the 2000 Census, the 2010 Census and the 2020 Census. I have testified as an expert witness in demographics and redistricting.

3. I am being compensated at a rate of \$325 per hour for my services in this case.

4. The redistricting geographic information system (GIS) software package used for this analysis is Maptitude for Redistricting 2021 from Caliper Corporation. The redistricting software was loaded with the census PL94-171 data from the Census Bureau and the census geography for Georgia. I was also provided with election data files used by the Georgia General Assembly during the redistricting process. The full suite of census geography was available, including counties, places, voting districts, water bodies, and roads, as well as census blocks, which are the lowest level of geography for which the Census Bureau reports population counts.

5. I have been asked to review the congressional, House of Representatives and State Senate plans considered and adopted by the Georgia General Assembly and compare them to the proposed congressional, House and Senate plans drawn by Dr. Moon Duchin and offer opinions regarding my analysis.

I was also provided with plans labeled “unity” plans from Dr. Duchin’s data, which I also analyzed.

6. As a result of this analysis, it is my opinion that each of the plans submitted in Dr. Duchin’s report and the unity plans has a significant increase in Democratic performance when compared to the enacted plans.

7. In preparing this analysis, I was given the block-equivalency files of the Duchin plans and the unity plans as well as the block-equivalency files of the 2021 adopted plans and incumbent databases used by the Georgia General Assembly during the redistricting process. The incumbent databases list the address locations and districts of the Representatives and Senators serving under the existing House (2015-enacted) and Senate (2014-enacted) plans prior to the election of 2022.

8. I loaded the 2021 House and 2021 Senate plans enacted by the Georgia General Assembly into the Maptitude for Redistricting software using the block-equivalency files provided. I loaded the Duchin Congressional, Senate and House plans and the Unity plans into the Maptitude for Redistricting software using the block-equivalency files provided. I loaded the prior congressional (2012), House (2015-enacted) and Senate (2014-enacted) plans into the Maptitude for Redistricting software using files provided with software. I loaded the associated incumbent databases provided.

9. Using the Maptitude for Redistricting software, I ran eight report and summaries for each of the Duchin plans, the Unity plans and the enacted plans:

- 1- Measures of compactness report,
- 2- Districts & incumbents report, (not run for congressional plans)
- 3- Population summary report,
- 4- Political subdivision splits report,
- 5- Plan component report,
- 6- Core constituency report compared to prior enacted plan,
- 7- Core constituency report compared to Enacted 2021 plan
- 8- District summary with election data

10. Each of these reports and summaries for each plan is included in the appendices to this report. I summarized highlights of this information in a table for each plan. An index with exhibit numbers for all of these reports and summaries is included at the end of the written report.

Chart 1. HD-Eff-Jan11 and Enacted 2021 House Plan comparisons

Plan metrics	HD Eff Jan11	House Enacted
County splits	69	69
Voting precinct splits	307	184
Mean compactness - Reock	0.41	0.39
Mean compactness - Polsby Popper	0.28	0.28
# Paired incumbents	62	20
Deviation relative range	-1.72% to 1.97%	-1.40% to 1.34%
Deviation overall range	3.70%	2.74%
# Districts won by: Biden (D-Pres20)	95	83
# Districts won by: Trump (R-Pres20)	85	97
# Districts won by: Bryant (D-PSC 20)	88	79
# Districts won by: Shaw (R-PSC 20)	92	101
# Seats 18+_AP_Blk% is: over 90%	3	0
# Seats 18+_AP_Blk% is: 80% to 90%	5	0
# Seats 18+_AP_Blk% is: 70% to 80%	4	11
# Seats 18+_AP_Blk% is: 60% to 70%	9	15
# Seats 18+_AP_Blk% is: 55% to 60%	9	5
# Seats 18+_AP_Blk% is: 52% to 55%	3	5
# Seats 18+_AP_Blk% is: 50% to 52%	5	2
# Seats majority 18+_AP_Blk%	38	49
# Seats 18+_AP_Blk% is: 45% to 50%	10	4
# Seats 18+_AP_Blk% is: 40% to 45%	8	2

Chart 2. HD-Alt1-Jan11 and Enacted 2021 House Plan comparisons

Plan metrics	HD Alt1 Jan11	House Enacted
County splits	73	69
Voting precinct splits	330	184
Mean compactness - Reock	0.39	0.39
Mean compactness - Polsby Popper	0.26	0.28
# Paired incumbents	68	20
Deviation relative range	-2.00% to 2.09%	-1.40% to 1.34%
Deviation overall range	4.08%	2.74%
# Districts won by: Biden (D-Pres20)	92	83
# Districts won by: Trump (R-Pres20)	88	97
# Districts won by: Bryant (D-PSC 20)	86	79
# Districts won by: Shaw (R-PSC 20)	94	101
# Seats 18+_AP_Blk% is: over 90%	2	0
# Seats 18+_AP_Blk% is: 80% to 90%	6	0
# Seats 18+_AP_Blk% is: 70% to 80%	2	11
# Seats 18+_AP_Blk% is: 60% to 70%	5	15
# Seats 18+_AP_Blk% is: 55% to 60%	5	5
# Seats 18+_AP_Blk% is: 52% to 55%	11	5
# Seats 18+_AP_Blk% is: 50% to 52%	19	2
# Seats majority 18+_AP_Blk%	50	49
# Seats 18+_AP_Blk% is: 45% to 50%	6	4
# Seats 18+_AP_Blk% is: 40% to 45%	5	2

Chart 3. HD-Alt2-Jan11 and Enacted 2021 House Plan comparisons

Plan metrics	HD Alt2 Jan11	House Enacted
County splits	70	69
Voting precinct splits	310	184
Mean compactness - Reock	0.4	0.39
Mean compactness - Polsby Popper	0.26	0.28
# Paired incumbents	65	20
Deviation relative range	-3.22% to 2.51%	-1.40% to 1.34%
Deviation overall range	5.73%	2.74%
# Districts won by: Biden (D-Pres20)	93	83
# Districts won by: Trump (R-Pres20)	87	97
# Districts won by: Bryant (D-PSC 20)	89	79
# Districts won by: Shaw (R-PSC 20)	91	101
# Seats 18+_AP_Blk% is: over 90%	3	0
# Seats 18+_AP_Blk% is: 80% to 90%	3	0
# Seats 18+_AP_Blk% is: 70% to 80%	4	11
# Seats 18+_AP_Blk% is: 60% to 70%	11	15
# Seats 18+_AP_Blk% is: 55% to 60%	4	5
# Seats 18+_AP_Blk% is: 52% to 55%	9	5
# Seats 18+_AP_Blk% is: 50% to 52%	9	2
# Seats majority 18+_AP_Blk%	43	49
# Seats 18+_AP_Blk% is: 45% to 50%	9	4
# Seats 18+_AP_Blk% is: 40% to 45%	10	2

Chart 4. SD-Eff-Jan11 and Enacted 2021 Senate Plan comparisons

Plan metrics	SD Eff Jan11	Senate Enacted
County splits	31	29
Voting precinct splits	129	47
Mean compactness - Reock	0.43	0.42
Mean compactness - Polsby Popper	0.29	0.29
# Paired incumbents	22	4
Deviation relative range	-1.73% to 1.67%	-1.03% to +0.98%
Deviation overall range	3.40%	2.01%
# Districts won by: Biden (D-Pres20)	33	23
# Districts won by: Trump (R-Pres20)	23	33
# Districts won by: Bryant (D-PSC 20)	30	23
# Districts won by: Shaw (R-PSC 20)	26	33
# Seats 18+_AP_Blk% is: over 90%	0	0
# Seats 18+_AP_Blk% is: 80% to 90%	1	0
# Seats 18+_AP_Blk% is: 70% to 80%	2	3
# Seats 18+_AP_Blk% is: 60% to 70%	2	6
# Seats 18+_AP_Blk% is: 55% to 60%	0	3
# Seats 18+_AP_Blk% is: 52% to 55%	0	1
# Seats 18+_AP_Blk% is: 50% to 52%	3	1
# Seats majority 18+_AP_Blk%	8	14
# Seats 18+_AP_Blk% is: 45% to 50%	7	1
# Seats 18+_AP_Blk% is: 40% to 45%	5	1

Chart 5. SD-Alt1-Jan11 and Enacted 2021 Senate Plan comparisons

Plan metrics	SD Alt1 Jan11	Senate Enacted
County splits	34	29
Voting precinct splits	120	47
Mean compactness - Reock	0.43	0.42
Mean compactness - Polsby Popper	0.29	0.29
# Paired incumbents	21	4
Deviation relative range	-1.36% to 1.28%	-1.03% to +0.98%
Deviation overall range	2.64%	2.01%
# Districts won by: Biden (D-Pres20)	28	23
# Districts won by: Trump (R-Pres20)	28	33
# Districts won by: Bryant (D-PSC 20)	26	23
# Districts won by: Shaw (R-PSC 20)	30	33
# Seats 18+_AP_Blk% is: over 90%	0	0
# Seats 18+_AP_Blk% is: 80% to 90%	0	0
# Seats 18+_AP_Blk% is: 70% to 80%	1	3
# Seats 18+_AP_Blk% is: 60% to 70%	1	6
# Seats 18+_AP_Blk% is: 55% to 60%	3	3
# Seats 18+_AP_Blk% is: 52% to 55%	2	1
# Seats 18+_AP_Blk% is: 50% to 52%	13	1
# Seats majority 18+_AP_Blk%	20	14
# Seats 18+_AP_Blk% is: 45% to 50%	1	1
# Seats 18+_AP_Blk% is: 40% to 45%	0	1

Chart 6. SD-Alt2-Jan11 and Enacted 2021 Senate Plan comparisons

Plan metrics	SD Alt2 Jan11	Senate Enacted
County splits	26	29
Voting precinct splits	98	47
Mean compactness - Reock	0.44	0.42
Mean compactness - Polsby Popper	0.3	0.29
# Paired incumbents	20	4
Deviation relative range	-1.30% to 1.33%	-1.03% to +0.98%
Deviation overall range	2.63%	2.01%
# Districts won by: Biden (D-Pres20)	28	23
# Districts won by: Trump (R-Pres20)	28	33
# Districts won by: Bryant (D-PSC 20)	26	23
# Districts won by: Shaw (R-PSC 20)	30	33
# Seats 18+_AP_Blk% is: over 90%	0	0
# Seats 18+_AP_Blk% is: 80% to 90%	1	0
# Seats 18+_AP_Blk% is: 70% to 80%	1	3
# Seats 18+_AP_Blk% is: 60% to 70%	2	6
# Seats 18+_AP_Blk% is: 55% to 60%	4	3
# Seats 18+_AP_Blk% is: 52% to 55%	3	1
# Seats 18+_AP_Blk% is: 50% to 52%	6	1
# Seats majority 18+_AP_Blk%	17	14
# Seats 18+_AP_Blk% is: 45% to 50%	4	1
# Seats 18+_AP_Blk% is: 40% to 45%	0	1

Chart 7. CD-Jan11 and Enacted 2021 congressional Plan comparisons

Plan metrics	CD-Alt1- Jan11	CD Enacted
County splits	17	15
Voting precinct splits	46	47
Mean compactness - Reock	0.47	0.44
Mean compactness - Polsby Popper	0.3	0.27
# Paired incumbents	no data	no data
Deviation relative range	-1 to 1	-1 to 1
Deviation overall range	0.00% to 0.00%	0.00% to 0.00%
# Districts won by: Biden (D-Pres20)	7	5
# Districts won by: Trump (R-Pres20)	7	9
# Districts won by: Bryant (D-PSC 20)	6	5
# Districts won by: Shaw (R-PSC 20)	8	9
# Seats 18+_AP_Blk% is: over 90%	0	0
# Seats 18+_AP_Blk% is: 80% to 90%	0	0
# Seats 18+_AP_Blk% is: 70% to 80%	0	0
# Seats 18+_AP_Blk% is: 60% to 70%	0	1
# Seats 18+_AP_Blk% is: 55% to 60%	0	0
# Seats 18+_AP_Blk% is: 52% to 55%	0	1
# Seats 18+_AP_Blk% is: 50% to 52%	4	0
# Seats majority 18+_AP_Blk%	4	2
# Seats 18+_AP_Blk% is: 45% to 50%	1	2
# Seats 18+_AP_Blk% is: 40% to 45%	0	0

Chart 8. HD-Unity and Enacted 2021 House Plan comparisons

Plan metrics	HD Unity	House Enacted
County splits	79	69
Voting precinct splits	99	184
Mean compactness - Reock	0.36	0.39
Mean compactness - Polsby Popper	0.23	0.28
# Paired incumbents	73	20
Deviation relative range	-0.62% to 0.58%	-1.40% to 1.34%
Deviation overall range	1.20%	2.74%
# Districts won by: Biden (D-Pres20)	99	83
# Districts won by: Trump (R-Pres20)	81	97
# Districts won by: Bryant (D-PSC 20)	96	79
# Districts won by: Shaw (R-PSC 20)	84	101
# Seats 18+_AP_Blk% is: over 90%	0	0
# Seats 18+_AP_Blk% is: 80% to 90%	0	0
# Seats 18+_AP_Blk% is: 70% to 80%	0	11
# Seats 18+_AP_Blk% is: 60% to 70%	12	15
# Seats 18+_AP_Blk% is: 55% to 60%	15	5
# Seats 18+_AP_Blk% is: 52% to 55%	17	5
# Seats 18+_AP_Blk% is: 50% to 52%	13	2
# Seats majority 18+_AP_Blk%	57	49
# Seats 18+_AP_Blk% is: 45% to 50%	9	4
# Seats 18+_AP_Blk% is: 40% to 45%	8	2

Chart 9. SD-Unity and Enacted 2021 Senate Plan comparisons

Plan metrics	SD Unity	Senate Enacted
County splits	46	29
Voting precinct splits	27	47
Mean compactness - Reock	0.37	0.42
Mean compactness - Polsby Popper	0.22	0.29
# Paired incumbents	22	4
Deviation relative range	-0.14% to 0.19%	-1.03% to +0.98%
Deviation overall range	0.33%	2.01%
# Districts won by: Biden (D-Pres20)	31	23
# Districts won by: Trump (R-Pres20)	25	33
# Districts won by: Bryant (D-PSC 20)	30	23
# Districts won by: Shaw (R-PSC 20)	26	33
# Seats 18+_AP_Blk% is: over 90%	0	0
# Seats 18+_AP_Blk% is: 80% to 90%	0	0
# Seats 18+_AP_Blk% is: 70% to 80%	0	3
# Seats 18+_AP_Blk% is: 60% to 70%	0	6
# Seats 18+_AP_Blk% is: 55% to 60%	0	3
# Seats 18+_AP_Blk% is: 52% to 55%	11	1
# Seats 18+_AP_Blk% is: 50% to 52%	9	1
# Seats majority 18+_AP_Blk%	20	14
# Seats 18+_AP_Blk% is: 45% to 50%	2	1
# Seats 18+_AP_Blk% is: 40% to 45%	0	1

Chart 10. CD-Utity and Enacted 2021 congressional Plan comparisons

Plan metrics	CD-Utity	CD Enacted
County splits	21	15
Voting precinct splits	31	47
Mean compactness - Reock	0.36	0.44
Mean compactness - Polsby Popper	0.23	0.27
# Paired incumbents	no data	no data
Deviation relative range	0 to 1	-1 to 1
Deviation overall range	0.00% to 0.00%	0.00% to 0.00%
# Districts won by: Biden (D-Pres20)	7	5
# Districts won by: Trump (R-Pres20)	7	9
# Districts won by: Bryant (D-PSC 20)	7	5
# Districts won by: Shaw (R-PSC 20)	7	9
# Seats 18+_AP_Blk% is: over 90%	0	0
# Seats 18+_AP_Blk% is: 80% to 90%	0	0
# Seats 18+_AP_Blk% is: 70% to 80%	0	0
# Seats 18+_AP_Blk% is: 60% to 70%	0	1
# Seats 18+_AP_Blk% is: 55% to 60%	0	0
# Seats 18+_AP_Blk% is: 52% to 55%	1	1
# Seats 18+_AP_Blk% is: 50% to 52%	3	0
# Seats majority 18+_AP_Blk%	4	2
# Seats 18+_AP_Blk% is: 45% to 50%	1	2
# Seats 18+_AP_Blk% is: 40% to 45%	1	0

11. As an experienced map drawer, I am often asked by elected officials and redistricting stakeholders to review the political performance of districts within a plan and compare that to other plans. When I conduct those analyses, I generally use statewide elections to assess the overall partisan makeup of plans. In the tables above, two elections are included - the presidential election of 2020 (Biden-D vs.

Trump-R) and the Public Service Commissioner election of 2020 (Bryant-D vs. Shaw-R). I understand that these are some of the elections that legislators used when drawing the 2021 enacted plans.

12. Having reviewed these election results, it is my opinion that each of the plans submitted in Dr. Duchin's report has a significant increase in Democratic performance when compared to the enacted plans. It is also my opinion that each of the unity plans has a significant increase in Democratic performance when compared to the enacted plans.

13. The index of exhibits attached to this report is as follows:

INDEX OF EXHIBITS

1. Morgan CV
2. CD Enacted Core Constituencies to 2012 Congressional Plan
3. CD Enacted District Election Summary
4. CD Enacted Measures of Compactness
5. CD Enacted Plan Components with Population Detail
6. CD Enacted Political Subdivision Splits – VTD
7. CD Enacted Population Summary
8. CD-Alt1-Jan11 Core Constituencies to 2012 Congressional Plan
9. CD-Alt1-Jan11 Core Constituencies to 2021 Congressional Plan
10. CD-Alt1-Jan11 District Election Summary
11. CD-Alt1-Jan11 Measures of Compactness
12. CD-Alt1-Jan11 Plan Components with Population Detail
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97. SD-Unity Plan Components with Population Detail
98. SD-Unity Political Subdivision Splits – VTD
99. SD-Unity Population Summary

[Signature on next page]

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 15th day of February, 2023.



JOHN B. MORGAN